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Sup. Ct.

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

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No. 40

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ANTHONY CRAMER, PETITIONER

vs.

THE UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI FILED SEPTEMBER 30, 1943
CERTIORARI GRANTED NOVEMBER 8, 1943

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

No. 406

ANTHONY CRAMER, PETITIONER

-vs.-

THE UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE SECOND CIRCUIT

INDEX

	Original	Print
Record from D. C. U. S. Southern New York	a	1
Statement under Rule 13	a	1
Indictment	e	1
Bill of exceptions	1	7
Appearances	1	7
Opening statement for the Government	2	8
Opening statement for the defendant	19	16
Testimony of		
Jean Hurst:		
Direct	41	27
Ernest Peter Burger:		
Direct	47	30
Leon O. Prier:		
Direct	74	43
D. J. Parsons:		
Direct	75	44
Grover D. Bushman:		
Direct	92	53
Ernest E. Salisbury:		
Direct	102	57
Reginald Martin:		
Direct	107	60
Fred W. Speer:		
Direct	109	61

Record from D. C. U. S., Southern New York—Continued.

Bill of exceptions—Continued.

Testimony of—

	Original	Print
Garnett Andrews:		
Direct	115	64
Thomas Williams:		
Direct	116	64
Clifford Webb:		
Direct	117	65
William Gordon Lee:		
Direct	119	66
Frank Callan:		
Direct	120	66
Charles Ronald MacInnes:		
Direct	121	67
Cross	127	70
Re-direct	132	73
W. Willis Fisher:		
Direct	133	73
Cross	137	75
B. D. Rice:		
Direct	145	79
Cross	150	81
Charles H. Stanley:		
Direct	155	84
Cross	157	85
Harvey G. Foster:		
Direct	158	85
R. C. Carden:		
Direct	160	86
Cross	162	88
Walter Allen Crow:		
Direct	181	97
Cross	187	99
John G. Willis:		
Direct	190	101
Cross	227	119
Re-cross	232	151
Alvin E. Ostholthoff:		
Direct	293	152
Kenneth Ronton:		
Direct	299	155
Charles M. Duncan:		
Direct	301	156
John A. O'Brien:		
Direct	304	157
Philip Muller, Jr.:		
Direct	309	160
Catherine O'Meara:		
Direct	310	161

Record from D. C. U. S., Southern New York—Continued.

Bill of exceptions—Continued.

Testimony of—

	Original	Print
Florence E. Smith:		
Direct	312	162
Robert F. Carney:		
Direct	314	162
Joseph E. Condon:		
Direct	315	163
Leonard Higdon:		
Direct	316	163
John D. McKinney:		
Direct	320	165
John A. Holtzman:		
Direct	322	166
Charles A. Appel:		
Direct	323	167
Paul Powers:		
Direct	335	172
Emma Kopp:		
Direct	338	174
Cross	351	180
Redirect	421	215
Motion to dismiss and denial thereof	425	217
Testimony of Anthony Cramer:		
Direct	427	218
Cross	587	297
Redirect	724	364
Motion for directed verdict	728	367
Denial of motion for directed verdict	734	370
Withdrawal of certain overt acts	736	371
Motion as to overt acts One, Two, and Ten	736	371
Denial of motion as to overt acts One, Two, and Ten	737	371
Summation for defendant	738	372
Summation for Government	830	416
Charge of the Court	871	437
Defendant's exceptions to charge	890	446
Verdict	893	447
Motion to set aside verdict and for a new trial	894	448
Denial of motion to set aside verdict and for a new trial	895	448
Sentence	897	449
Requests to charge on behalf of defendant	905	453
Clerk's certificate to statement of evidence [omitted in printing]	909a	456
Order settling bill of exceptions and filing record	910	456
Stipulation as to record on appeal	911	456
List of exhibits	913	457
Notice of appeal	916	459
Assignments of error	920	460
Stipulation dispensing with printing of exhibits	935	473
Clerk's certificate [omitted in printing]	937	474

	Original	Print
Proceedings in U. S. C. C. A., Second Circuit	939	474
Order permitting filing of typewritten record and brief	939	474
Opinion, Clark, J.	942	475
Judgment	963	488
Clerk's certificate [omitted in printing]	965	489
Order granting certiorari	966	489
Order granting motion for leave to proceed in forma pauperis	967	489

In the United States District Court, Southern
District of New York

UNITED STATES OF AMERICA

vs.

ANTHONY CRAMER

Statement under Rule 13

Filed March 22, 1943

The indictment was filed on August 31st, 1942, against Anthony Cramer alleging violation of Section 1, Title 18 U. S. Code. The defendant was arraigned before Hon. John C. Knox, U. S. D. J., on August 31st, 1942, was held in \$50,000 bail and was remanded. On September 4th, 1942, the defendant pleaded not guilty before Hon. Blake Kennedy, U. S. D. J., and was remanded.

The trial was commenced before Hon. Henry W. Goddard, U. S. D. J., and a jury on November 9th, 1942, and was continued on November 10th, 12th, 13th, 16th, and 17th, 1942. The defendant was convicted on November 18th, 1942. The defendant was sentenced to forty-five years imprisonment and was fined \$10,000.

A notice of appeal was filed on December 3rd, 1942.

[File endorsement omitted.]

In the District Court of the United States for the
Southern District of New York

Indictment

Filed Aug. 31, 1942

SOUTHERN DISTRICT OF NEW YORK, ss:

The Grand Jurors for the United States of America, duly empaneled and sworn in the District Court of the United States for the Southern District of New York, and inquiring for that district, upon their oath present:

That Anthony Cramer, the defendant herein, at the City, County, State, and Southern District of New York and within the jurisdiction of this Court, continuously and at all times from June 17, 1942, up to and including July 17, 1942, under the circumstances and conditions and in the manner and by the means here-

inafter set forth, then and there being a citizen of the United States and a person owing allegiance to the United States, in violation of his said duty of allegiance, unlawfully, feloniously, traitorously, and treasonably did adhere to the enemies of the United States, to wit, to the Government of the German Reich, its counsellors, armies, navies, secret agents, spies, representatives, and subjects, with which the United States at all times since December 11, 1941, have been at war, giving to said enemies aid and comfort within the United States and elsewhere, that is to say:

On or about June 17, 1942, one Werner Thiel, alias William Thomas, hereinafter referred to as Werner Thiel, and one Edward John Kerling, alias Edward John Kelly, alias Keller, hereinafter referred to as Edward John Kerling, representatives and subjects of the Government of the German Reich, and enemies of the United States, came into the United States for the purpose of executing a mission entrusted to them by the Government of the German Reich in the furthering and carrying on of its war against the United States, and for a period of time thereafter up to August 8, 1942, in the execution of said mission, served the Government of the German Reich as, and acted as, secret agents and spies and secret representatives.

The said mission of Werner Thiel and Edward John Kerling throughout said period of time insofar as the character of the same is known to the said Grand Jurors included the destruction of certain war materials, premises, and utilities of the United States, the receipt of money from the Government of the German Reich and the disbursement of such money in connection with the procurement, manufacture, and use of explosive substances and sabotage devices, and the recruiting and hiring of persons, whose names are to the Grand Jurors unknown, to engage in unlawful hostile enterprises in connection with the use of said explosive substances and sabotage devices in the destruction of the war materials, premises, and utilities of the United States.

The said mission of Werner Thiel and Edward John Kerling throughout said period of time also included the securing of information concerning the national defense of the United States and concerning the attitude of its subjects and citizens towards said war and towards the said Government of the German Reich, and transmitting such information from time to time to the Government of the German Reich, to assist said Government in carrying on its said war with the Government of the United States, and the employment of other persons, to said Grand Jurors unknown, to secure such information for them. The said Werner Thiel and Edward John Kerling, and to secure for, and transmit such in-

formation to, said Government of the German Reich for the purpose aforesaid.

e. The said mission of Werner Thiel and Edward John Kerling throughout said period of time also included the making and conveying of false statements and reports within the United States with intent to interfere with the operation and success of the military and naval forces of the United States to the advantage of the Government of the German Reich in carrying on its said war with the Government of the United States, and the employment of other persons, to said Grand Jurors unknown, to make and convey such false statements and reports for the purpose aforesaid.

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present that Anthony Cramer, the defendant herein, has been a resident of the United States since 1925 and a citizen thereof since the year 1936, and that the said adherence of Anthony Cramer, the defendant herein, to the Government of the German Reich, its counsellors, armies, navies, secret agents, spies, representatives, and subjects, and the said giving of aid and comfort by Anthony Cramer to the same, enemies of the United States, consisted throughout said period of time, that is, the time from June 17, 1942, to July 17, 1942, in his receiving, harboring, relieving, assisting, and treating with the said Werner Thiel and Edward John Kerling, enemies of the United States, as aforesaid; in his aiding, abetting, advising, and counseling Werner Thiel and Edward John Kerling concerning said mission of Werner Thiel and Edward John Kerling on behalf of the Government of the German Reich; in his countenancing the activities of Werner Thiel and Edward John Kerling in furtherance of said mission; in his receiving, possessing, transferring, holding, carrying, safeguarding, and concealing property and funds of the said Werner Thiel with the intent and purpose that the said property and funds should be used by Werner Thiel in furtherance of his aforesaid mission on behalf of the Government of the German Reich; f. in his carrying out requests and instructions of the said Werner Thiel and endeavoring in pursuance thereof to establish contact and communication between Werner Thiel and other persons residing in the United States who would or might be favorably disposed to give aid and comfort to the said Werner Thiel; in his giving to officers, agents, and employees of the United States false information known to him to be false regarding the said Werner Thiel and Edward John Kerling with intent to conceal their identity and purpose and their activities in the United States, and to conceal the fact that said Werner Thiel and Edward John Kerling were secret agents, spies, and secret representa-

tives of the Government of the German Reich; he, the said Anthony Cramer, when so adhering and giving aid and comfort to the enemies of the United States, that is, the Government of the German Reich, its counsellors, armies, navies, secret agents, spies, representatives, and subjects, well knowing that the said Werner Thiel and Edward John Kerling were enemies of the United States, secret agents, spies, and secret representatives of the Government of the German Reich and had come to the United States and were here present in the United States for the purpose of executing a mission on behalf of said Government of the German Reich in the furthering and carrying on of its war against the United States.

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present that in the prosecution, performance, and execution of said treason and of said unlawful traitorous and treasonable adhering and giving aid and comfort to the enemies of the United States, Anthony Cramer, the defendant herein, at the several times hereinafter set forth in the specification thereof (being times when said United States were at war with the Government of the German Reich as aforesaid), unlawfully, feloniously, traitorously, and treasonably did do, perform, and commit certain overt acts, that is to say:

g 1. Anthony Cramer, the defendant herein, on or about June 23, 1942, at the Southern District of New York and within the jurisdiction of this Court, did meet with Werner Thiel and Edward John Kerling, enemies of the United States, at the Twin Oaks Inn at Lexington Avenue and 44th Street, in the City and State of New York, and did confer, treat, and counsel with said Werner Thiel and Edward John Kerling for a period of time for the purpose of giving and with intent to give aid and comfort to said enemies, Werner Thiel and Edward John Kerling.

2. Anthony Cramer, the defendant herein, on or about June 23, 1942, at the Southern District of New York and within the jurisdiction of this Court, did accompany, confer, treat, and counsel with Werner Thiel, an enemy of the United States, for a period of time at the Twin Oaks Inn at Lexington Avenue and 44th Street, and at Thompson's Cafeteria on 42nd Street between Lexington and Vanderbilt Avenues, both in the City and State of New York, for the purpose of giving and with intent to give aid and comfort to said enemy, Werner Thiel.

3. Anthony Cramer, the defendant herein, on or about June 24, 1942, and continuing up to and including June 29, 1942, at the Southern District of New York and within the jurisdiction of this Court, did carry into his residence at 171 East 83rd Street, in the City and State of New York, and there possess, conceal,

hold, and have for safekeeping a money belt received from Werner Thiel, an enemy of the United States, for the purpose of complying with instructions of Werner Thiel that he should hold said money belt in safekeeping, and for the purpose of giving and with intent to give aid and comfort to said enemy, Werner Thiel.

h 4. Anthony Cramer, the defendant herein, on or about June 24, 1942, and continuing up to and including June 29, 1942, at the Southern District of New York and within the jurisdiction of this Court, did carry into his residence at 171 East 83rd Street, in the City and State of New York, and there possess, conceal, hold, and have for safekeeping a sum of money, to wit, approximately \$160, received from Werner Thiel, an enemy of the United States, for the purpose of complying with instructions of Werner Thiel that he should hold said money in safekeeping, and for the purpose of giving and with intent to give aid and comfort to said enemy, Werner Thiel.

5. Anthony Cramer, the defendant herein, on or about June 24, 1942, at the Southern District of New York and within the jurisdiction of this Court, wrote a letter addressed to Miss Norma Kopp at Westport, Connecticut, for the purpose of complying with instructions of Werner Thiel, an enemy of the United States, that he should establish communication and contact between said Werner Thiel and Emma Franziska Kopp, also known as Norma Kopp, and for the purpose of giving and with intent to give aid and comfort to said enemy, Werner Thiel.

6. Anthony Cramer, the defendant herein, on or about June 25, 1942, at the Southern District of New York and within the jurisdiction of this Court, went from his residence at 171 East 83rd Street, in the City and State of New York, to the Corn Exchange Bank Trust Company, at 126 East 86th Street, in the City and State of New York, carrying a large sum of money, to wit, approximately \$3,500 (received from Werner Thiel, an enemy of the United States, for the purpose of placing said money in a safe deposit box and there holding it for safekeeping, and for the purpose of complying with instructions of the said Werner Thiel that he should hold said money in safekeeping, and for the purpose of giving and with intent to give aid and comfort to said enemy, Werner Thiel.

7. Anthony Cramer, the defendant herein, on or about June 25, 1942, and continuing up to and including June 29, 1942, in the Southern District of New York and within the jurisdiction of this Court, did place a large sum of money, to wit, approximately \$3,500, received from Werner Thiel, an enemy of the United States, in a safe deposit box in the Corn Exchange Bank Trust Company, 126 East 86th Street, in the City and State of New York, and did there

possess, conceal, hold, and have for safe-keeping said money; for the purpose of complying with instructions of Werner Thiel that he should hold said money in safekeeping, and for the purpose of giving and with intent to give aid and comfort to said enemy, Werner Thiel.

8. Anthony Cramer, the defendant herein, on or about June 27, 1942, at the Southern District of New York and within the jurisdiction of this Court, left a note for Werner Thiel, an enemy of the United States, at the Commodore Hotel, Lexington Avenue and 42nd Street, in the City and State of New York, in substance requesting said Werner Thiel to get in touch with him for the purpose of giving and with intent to give aid and comfort to said enemy, Werner Thiel.

9. Anthony Cramer, the defendant herein, on or about June 27, 1942, at the Southern District of New York and within the jurisdiction of this Court, accompanied Emma Franziska Kopp, also known as Norma Kopp, from his residence at 171 East 83rd Street, to Thompson's Cafeteria, Lexington Avenue and 42nd Street, both in the City and State of New York, for the purpose of complying with instructions of Werner Thiel, an enemy of the United States, that he should establish communication and contact between the said Emma Deanziska Kopp, also known as Norma Kopp, and Werner Thiel, and for the purpose of giving and with intent to give aid and comfort to the said Werner Thiel.

10. Anthony Cramer, the defendant herein, on or about June 27, 1942, at the Southern District of New York and within the jurisdiction of this Court, did give false information and make false statements regarding Werner Thiel, an enemy of the United States, to officers and agents of the United States, to wit, John G. Willis and A. E. Osthoff, Special Agents of the Federal Bureau of Investigation, Department of Justice, then and there engaged for and on behalf of the United States in investigating said Werner Thiel and his activities in the United States, said false information and false statements being in substance as follows, to wit: (1) That Werner Thiel's name was "Bill Thomas"; (2) That from March 1941, until June 1942, Werner Thiel had been working in a factory on the West Coast of the United States; (3) That during the aforesaid period, Werner Thiel had not been out of the United States; (4) That the money belt given him by Werner Thiel in June 1942, had contained only a couple of hundred dollars which Werner Thiel had owed him; (5) That \$3,500 in his safe deposit box at the Corn Exchange Bank Trust Company, 86th Street Branch, belonged to him and to no one else, had been obtained by him from the sale of his securities, and was kept by him in a safe deposit box because he considered it safer there.

than in his savings account at said bank; the aforesaid false information and false statements being given and made for the purpose of concealing the identity and mission of said enemy, Werner Thiel, and for the purpose of giving and with intent to give aid and comfort to said enemy, Werner Thiel.

Contrary to the said Anthony Cramer's duty of allegiance to the United States and to the form of the statute of the same in such case made and provided, and against the peace and dignity of the United States (Section 1, United States Criminal Code).

United States Attorney.

1 In United States District Court, Southern District
of New York

Cr. 113-12.

UNITED STATES OF AMERICA

vs.

ANTHONY CRAMER

Bill of exceptions

Before Hon. HENRY W. GODDARD, D. J., and A Jury

NEW YORK.

November 9, 1942, 10:30 a. m.

Appearances

Mathias F. Correa, Esq., United States Attorney, for the Government; Mathias F. Correa, Esq., Richard J. Burke, Esq., Assistant U. S. Attorney, and Louis W. Goodkind, Esq., Assistant U. S. Attorney, of Counsel. Harold R. Medina, Esq., and John McKim Minton, Jr., Esq., Attorneys for Defendant; Harold R. Medina, Esq., John McKim Minton, Jr., Esq., and John J. Jordan, Esq., of Counsel.

(A jury was duly impaneled and sworn. Two alternate jurors impaneled and sworn.)

Recess until 2:30 p. m.)

AFTERNOON SESSION

(2:30 p. m.)

Mr. CORREA. If your Honor please, at the outset may I state on the record that it is stipulated pursuant to the requirements of the statute and laws that a list of the Government's witnesses, including

their names and addresses, and a list of the panel from which this jury was drawn, with names and addresses, was served upon the defendant.

Mr. MEDINA. That is correct, your Honor. Those papers were duly and timely served.

Mr. CORREA. Thank you.

Opening statement for the Government

Mr. CORREA. May it please the Court, Members of the Jury: Now that you have been duly impaneled and sworn to the discharge of your all-important duty as the triers of the facts in this case, in terms of your oaths, it is your obligation to well and truly try the issues arising in this case as between the Government of the United States on the one hand, and this defendant, Anthony Cramer, on the other hand.

Now we start this trial, as is customary in all criminal cases, with an opening statement. The purpose of the opening statement is simply to outline for you in summary fashion the nature of the charge upon which the defendant is being tried, and the kind and character of the proof which the Government expects to adduce in support of that charge.

Further along this preliminary line, you are in this case the sole judges of the facts. Wherever in the course of this opening, or in any other point throughout the trial, defense counsel or I make any statement as to what the facts of the case are which disagrees with your recollection as to what the testimony of the witnesses and the other legally admitted evidence has been, then your recollection, and only your recollection, must control, and finally along the line of these preliminaries you are to take the law in this case from his Honor, the Judge of this Court, and from him alone.

Any statement which I may make in the course of the opening or at any time throughout the trial, or which any other counsel may make as to the law, is made for the purpose of clarifying the facts merely, and is in no way a binding statement upon you unless it agrees with his Honor's instructions to you as to the law of the case.

The charge in this case, as is customary in all criminal cases, is contained in an indictment returned by the Grand Jury of this Court. The indictment is an accusation merely, and has no probative force whatsoever. The indictment in this case charges what I suppose is the gravest crime known to our law, the crime of treason in time of war. Under our statutes treason may consist in either one of two things, either in levying war upon the United States, and you may disregard that for that phase of the offense is not involved in this case; the phase of the crime of

treason which is involved in this case consists in adhering to the enemies of the United States and giving them aid and comfort, and that is the crime charged in this indictment.

Specifically, the indictment charges that on June 17th of this year, 1942, there arrived in this country two secret agents of the German Government by name Edward J. Kerling and Werner Thiel. The indictment charges that those men were representatives and agents of the German Government and that they were themselves enemies of the United States. The indictment charges that they were here, a common enemy, and came to this country on a commission for the German Government, to carry out that mission to the advantage of Germany in this war against the United States and to the Government of the United States.

It is charged in the indictment that that commission included crippling the war effort of the United States by sabotage of essential industries and other hostile enterprises. The indictment further charges that in June of 1942, when those two enemies, Kerling and Thiel, arrived in the United States, the defendant Anthony Cramer was a resident of the United States; that he had been such since 1926, and that since 1936 he had been a naturalized citizen of the United States, which he is today, and was at the time the matters set forth in the indictment occurred.

The indictment charges that Cramer, as a resident of the United States, and as a citizen of the United States, owed allegiance to this country; that nevertheless Cramer, between June 17th and July 17th of this year, knowing Kerling and Thiel to be enemies of the United States, adhered to them and gave them aid and comfort, and in particular it is charged that Cramer during that period, that is, between June 17th and July 17th of this year, advised, counseled, conferred, and traded with Kerling and Thiel, knowing they were enemies; again, that he received and held and concealed property and funds of Thiel's for safekeeping, knowing that Thiel was an enemy, and knowing that Thiel was to use that property and those funds in the carrying out of Thiel's commission against the United States as an enemy of this country. Against this it is charged that Cramer made and attempted to make contact and establish communication for Thiel with persons whom Thiel instructed him to get in touch with, persons who might have been or be favorably disposed to Thiel's commission here, and that Cramer did this by way of rendering aid and comfort to Thiel whom he knew to be an enemy of the United States.

Again it is charged that Cramer during this period gave to officers of the United States false information and made false statements to them which he knew to be false concerning Thiel's identity, and concerning his mission, and various facts about

Thiel with the purpose and intent of rendering aid and comfort to Thiel, who was known to Cramer at the time to be an enemy of the United States, and with the purpose and intent of concealing from the American authorities Thiel's true identity and his true commission.

In addition to the charge which is set forth in general, as I have outlined it, although in some more specification, there are set forth in the indictment ten overt acts committed by Cramer according to the allegations of the indictment in the carrying out of his crime of treason.

Under the law the Government is required to prove one, that is, at least one, of those ten overt acts by the testimony of two witnesses to the same act, and we will prove not only one, but several of the acts, in that manner.

I may add that actually we will prove all of the overt acts by getting sufficient proof as to at least one of them and probably at least several of them by the testimony of two witnesses to the same acts.

Now, so much for the outline of the charge as it is set forth in the indictment which we are trying here. Let us turn now to the proof: the proof here will show an aspect of total war which is all too well known to us in the cases of other countries, but which, applied to our own country even when the concrete evidence is presented as it will be, seems nevertheless fantastic and unreal. Generally, the proof here will show that in April or some time in the Spring of this year, the German High Command decided upon a secret armed invasion of the United States, the continental United States, and set in execution such a plan; that there was entrusted to eight selected members of the German army forces the mission of clandestinely penetrating the continent of the United States, there to cripple the war effort of the United States by sabotage of certain vital industries essential to the carrying on of that effort. More appalling, the proof will show specifically, that in carrying out this mission the German High Command and the secret agents themselves relied upon the fact that there were in this country certain traitors and treasonable individuals who could be relied upon to render every aid, assistance, counsel, and advice within their power to those secret agents in the carrying out of their mission and to do so without prior notification and without prearrangement of any kind or character. The proof will show that Cramer was just such an individual, and the proof will further show that the fact that those enemies of the United States, Kerling and Thiel, were unsuccessful in completing their mission, was due to no lack of will or effort to aid them on the part of Cramer; more particularly the first phase

of the proof which the Government will introduce in this case will be devoted to showing and proving the essential allegations of the indictment, that Kerling and Thiel were in fact enemies of the United States, as the indictment alleges they were. Viewed from this aspect, which is the first phase of the Government's proof, this tale of treason begins in April 1942, at a sabotage school conducted by the German High Command in Germany, somewhere near Berlin. Attending that school were eight selected volunteers from the German Army. They were, and I will mention their names, and you will hear them from time to time throughout this trial, Edward John Kerling, Werner Thiel, Dash, Burger, Quirin, Heinck, Haudt, and Neubauer. Now the agents of those men had lived in the United States before. Kerling and Thiel had been, at the times they lived in the United States, acquaintances of this defendant, Anthony Cramer; in fact Thiel had left the United States to return to Germany to go into the army only in 1941, and as the proof will show, had correspondence with the defendant Cramer at various points, or from various points, on his return trip.

Now when their training at this school was concluded, and after a short vacation or furlough, all eight of these members of the German Army were sent to a German naval base on the coast of France. There they were divided into two groups of four each, the one group being headed by Dash, and included Burger, Quirin, and Heinck, and the other group was headed by Edward John Kerling, one of the men named in this indictment as an enemy, and included Thiel and also Haudt and Neubauer.

Now the training these men had had, as the proof will show, had included specifically the manufacturing, use and employment in sabotage of explosive and incendiary devices. Before they left the coast of France each group was given a box or boxes containing a number of explosive and incendiary devices for use in the carrying out of their commission of sabotage. They were also given their paraphernalia such as civilian clothes, shovels for burying the materials in the sands when they arrived, and the like. In addition, however, to those weapons for use in carrying out their commissions, that is the explosives and incendiaries, each member of the entire group, that is, each one of the eight, was given another most important weapon for use in the carrying out of their mission. Each of them was equipped with a money pack containing approximately four thousand dollars in American currency.

One day in the end of May of this year the Kerling group, the group that included Werner, Thiel, and Haudt, and Neubauer, left this naval base on the coast of France in a submarine headed for the coast of Florida. A day or two later the other group,

the group headed by Dash, which included Burger, Quirin, and Heinck, left in another submarine headed for the shores of Long Island.

In the early hours of the morning of June 13, 1942, the Dash group were rowed ashore from a submarine in a rubber boat and landed on the beach on the shore of Long Island, somewhere near Amagansett, Long Island. There they brought ashore with them boxes of explosives which they buried in the sand. They divested themselves of the German Army uniforms which they had been wearing in the submarine and changed into civilian clothes. Thereafter they proceeded by train to Jamaica, Long Island, where they stopped and made purchases of wearing apparel, shoes, and clothes, to replace their own which were wet and sandy, and then proceeded from Jamaica to New York City. Four days later the other group, the group headed by Kerling, which included as I have said, Werner, Thiel, landed on a
11 lonely beach near Ponta Vagra, on the coast of Florida.

They, like the first group, brought ashore and buried in the sand their equipment they had by way of explosives and incendiary material and substances, and devices, and they also divested themselves of their uniforms and assumed civilian dress and, in the daylight hours of that day, which was June 17th, went into Jacksonville, Florida, by bus.

Subsequently, a few days later, Kerling and Thiel—Kerling, you understand the leader of the Florida group and Thiel a member of that group, and both of them named in this indictment as being the enemies this defendant Cramer adhered to, and to whom he gave aid and comfort—arrived in New York. Thiel was not long in New York before he got in touch with the defendant Cramer. On June 22nd a note was delivered for Cramer, or left at his room at 171 East 83rd Street. The note advised Cramer to go to the Grand Central Station to meet there friends of Chicago. Cramer followed the suggestion contained in this note, went to the Grand Central Station and there met Thiel. Now the proof will show that Cramer knew that Thiel had gone back to Germany, and this was the first that Cramer knew that Thiel was again in this country. Cramer and Thiel having met, repaired to a tavern nearby there known as the Twin Oaks in
12 Lexington Avenue, located, as my recollection tells me, in Lexington Avenue, somewhere near 44th Street, but the proof will show, and there they sat down together and Thiel told Cramer that he, Thiel, had come to the United States by submarine and that he had been landed by rowing ashore in a rubber boat from the submarine; he told Cramer he had come to the United States on a mission for the German Government.

and he told him there were others who had come similarly and they were to get their instructions from a hide-out in the Bronx, and he also told Thiel he had with him a money belt containing approximately four thousand dollars in American currency for use in carrying out his mission; that is, the money had been supplied to him by the German Government for that purpose.

Now the proof will show that Cramer, mind you a naturalized citizen, and the proof will demonstrate that, owing allegiance to this country, and undivided allegiance, then and there knew that Thiel was an enemy of the United States. He knew he had been landed here and he knew he was on a mission for the German Government and he was equipped with the means of carrying it out. Nevertheless Cramer immediately began to aid and assist and help Thiel in every way within his power, and, in the words of the statute, to render him aid and comfort. He conferred with him at length, and in the course of their discussion he suggested to Thiel that Thiel give him the money belt and the money for safe keeping; that he, Cramer, had a safe deposit box in which he could put the money to hold it until Thiel was ready to use it, and when they left that night they arranged to meet again at the same place the following evening, June 23rd. And the next evening Cramer again kept the date which he had made with Thiel and at the Twin Oaks Inn he met not only Thiel but Kerling as well. Cramer of course knowing, as the proof will show, before he came there, that the men he was meeting were enemies of the United States.

Cramer learned that Kerling also was an enemy of the United States and that he was one of the men who had been landed with Thiel and he, too, was engaged in executing a mission for the German Government. In fact, on this occasion, as the proof will show, Cramer learned for the first time that the two of them had landed only a few days before, for he had not learned on the previous night exactly when Thiel had landed here.

Again there is lengthy discussion among the three of them. In the course of this meeting Thiel, acting upon Cramer's suggestion that Cramer help him, went into the men's room of the Twin Oaks Inn and removed the money belt, brought it back and handed it to Cramer for safe keeping, which Cramer accepted and agreed to keep safely for Thiel.

After being together in this conference and discussion for one or two hours—and this meeting, by the way, is the subject of one of the ten overt acts set forth in the indictment—after this discussion Kerling left and Cramer and Thiel themselves left the Twin Oaks Inn and repaired to the Thompson cafeteria in

the Grand Central Station on 42nd Street. There they remained deep in conversation and after they came but and walked for some time up and down the street, very engrossed in discussion, they finally departed, having made an arrangement to meet again on June 25th, which was the second following day.

Now on the morning of June 25th Cramer, pursuant to Thiel's request and in line with his purpose and intent of aiding and comforting Thiel, took the money belt which he had, you see, from the evening of June 23rd when he received it, and removed the money from it. This he did in his apartment. Then he secreted the money belt in his apartment, hiding it somewhere around the apartment. He took the money, and after noting how much there was there on a piece of paper—if my recollection serves me it was about \$3,500, I do not have the exact figure in mind—he took the money to the local branch of the Corn Exchange Bank where he, Cramer, maintained a safe deposit box, renewed his rental of the safe deposit box and placed the money in the box for safe keeping for Thiel.

15 Now the proof will show that at the time he did this, Cramer knew that Thiel, the man for whom he was doing it, was an enemy of the United States. He knew that Thiel intended to use this money in the carrying out of his mission for the German Government, and those acts, the hiding of the money belt, the safeguarding of the money and taking it to the bank, are the subject of some of the overt acts set forth in the indictment.

During the next two days Cramer tried without success again to contact Thiel. Unknown to Cramer, Thiel was already in custody of the Federal Bureau of Investigation. Cramer did not know that, however, and kept up his efforts to get in touch. On one occasion he left a note for Thiel at the Commodore Hotel under Thiel's assumed name of William Thomas. Thiel had been staying at the Commodore Hotel and registered in the name of William Thomas, as Cramer knew.

Now one of the things that Thiel had asked Cramer, the defendant here, to do for him was to get in touch with a woman by the name of Norma Kopf, who had been a friend of Thiel's before he left this country to return to Germany in 1941.

Cramer assuming that Thiel's request of him was for the purpose and intent of rendering him aid and comfort, wrote 16 Norma Kopf a note. She was in Connecticut where she worked, and he told her to come to his apartment on East 83rd Street as he had big news for her. He did not say exactly what the nature of the news was. Norma Kopf came to Cramer's apartment and there Cramer told her the great news, as it was to them, that Thiel was back in the United States; that he had been

landed here from a German submarine and that he was here on a mission for the German Government.

Cramer, pursuant to Thiel's request and wish, asked Kopf to accompany him down to the Thompson cafeteria in Grand Central Station to meet Thiel, and Norma Kopf acceded, and Cramer brought her down and they were unsuccessful in contacting Thiel because, as I have already mentioned, at this time Thiel was in the custody of the Federal Bureau of Investigation although that was not known to Cramer.

I might add that the bringing of Norma Kopf down to meet Thiel was one of the acts of aid and comfort and one of the overt acts in the carrying out of the treason which is charged in this indictment.

Finally on the night of June 27th, Cramer himself was apprehended by the Federal Bureau of Investigation. Now at the time that Cramer was taken into custody he did not know that Thiel was already in custody. Consequently in pursuance of 17 that purpose of rendering aid and comfort, of assisting Thiel and helping him in his mission, Cramer made a number of false statements about Thiel to the F. B. I. immediately upon his apprehension; in particular he denied Thiel's identity; that the man he knew was William Thomas. When they asked had he been seeing a German down in the Hotel Commodore, around in that neighborhood, he admitted to concealing the facts which he knew concerning Thiel's arrival in this country by saying this man, William Thomas, had been in this country all along and had been employed somewhere out West, if my recollection serves me; he also admitted to concealing the facts concerning Thiel's money belt which he had taken for Thiel to safeguard and hide for him, similarly concerning the money in the safe deposit box, Cramer said that was his money made from stock deals, or something of that character.

These statements made by Cramer in pursuance of this effort to cover up Thiel and conceal his identity, and conceal his mission, and, in short, to give him, in the words of the statute, aid and comfort, are the subject of the last ten overt acts set forth in the indictment.

In general those are the highlights of the proof which the Government will introduce in support of this charge that the defendant here, Anthony Cramer, adhered to the enemies of the United States and specifically to Edward John Kerling and 18. Werner Thiel, both enemies of the United States, giving those enemies aid and comfort.

Before closing, however, I should like to call your attention to one other phase of the proof in the case. This indictment ends,

as is customary in all indictments in criminal cases, with the statement that what has been set forth was contrary to the statute and against the peace and dignity of the United States, but it also has another phrase, it says "contrary to the said Anthony Cramer's duty of allegiance to the United States," which is peculiarly an essential to the crime of treason.

Now we will introduce in the course of this trial proof of Cramer's motive. Mind you, his intent will be clear because he did what he did with knowledge, and knowledge that the man and men he was aiding and comforting were enemies, and further than that, we will show what his motive was.

There has been some discussion here about the question of pre-Pearl Harbor isolationists, and isolationism, but we will show in the case of Cramer that he was opposed to the United States, out of sympathy with the United States, insofar as any policy prior to the declaration of war was concerned, but also with respect to the carrying on of the present war by the United States at the very time when he was doing the things charged in this indictment which are the substance of the charge against him.

19 We will show, too, that his sympathy and his loyalty, despite allegiance, or despite the allegiance which he owed to this country, were in fact with the enemy; that is, were in fact with Germany.

Now in concluding, member of the jury, on behalf of the Government, we ask you throughout this case to keep an open mind. Do not make up your minds at any stage of the case until all of the evidence is in and the case has finally been submitted to you for your verdict, and when that time comes, I feel confident you will be convinced of the guilt of this defendant of the crime with which he is charged beyond any reasonable doubt.

Opening statement for defendant

Mr. MEDINA. May it please the Court, Mr. Foreman and Gentlemen of the Jury: I am going to be perhaps a little bit more colloquial and less formal in my statement of our defense than my adversary, largely because each person has to deal with his own way of doing, and I say that because I don't want you to think that I mean it in any criticism of him at all, but I have just a slightly different way of going at these things.

This is probably the most serious case that either you gentlemen or I shall ever have anything to do with. And I
20 want to be sure that we go at it in the most serious way that we can. Now to begin with, I want to have you understand that there are certain rights that the defendant has

that I am going to do my level best to see that they are carried out. The first is that we do not just start from scratch here today. The defendant starts a little better than scratch, because he is presumed to be innocent, and the only way that presumption can be good for anything is to have you gentlemen really start the case feeling he is presumed to be innocent, and that is the way we have got to start.

When we get to the end, as Mr. Correa has already indicated to you, you cannot bring in a verdict of guilty if there is a reasonable doubt in your mind as to any of the material and essential facts. Now those are big, basic principles. They are not little things to be lightly considered. As far as we see this case, perhaps a little differently from other cases of a different character, but as we see it, it is to this defendant's advantage from the beginning to end to simplify the case, to clarify it, to have the issues perfectly crystal clear for each and every one of you gentlemen and understand it. It is not always easy to do that in an opening. I am going to try to lean over backwards, and instead of giving you exaggerated statements, things that may or may not be so, I am going to try to deal with you just as I would with associates or business people I was working with, to make an understatement rather than an overstatement.

Let us see just what is involved and then let me show you what the position of the defendant is as to each of those issues.

The first one, as Mr. Correa has indicated, is that the Government must show that these persons, Thiel and Kerling, with whom Mr. Cramer is alleged to have had dealings, were really enemy spies here to do the work of the German Government. They must show that, of course. And I say to you gentlemen, and I admit in the most formal way for this record that the defendant admits that that is so. That is not going to be an issue in this case. It is not going to be a real issue now, of course, because the defendant does not concede that he knew that to be so. That is something different. But as far as that fact is concerned of Thiel and Kerling being German spies who came over here to do damage to our country, that is not going to be an issue in this case because that is so. It is admitted to be so. I say that for two reasons: naturally I am here to defend Mr. Cramer. Make no mistake about that. I am saying nothing here for the assistance of anybody else. You may assume every word I utter here will be taken by me to be in some way to his advantage. I don't want to make any bones about that at all. That is what I am here for, so I say that, and I make that statement here in the beginning.

first because I do not want to see this trial unnecessarily prolonged. We have a certain issue. Let us stick to that. Furthermore, I believe that if we have a great many witnesses called and a whole lot of exhibits brought in on that particular issue, that are copied from others Cramer had nothing to do with at all, I say that would be prejudicial to him and I intend to object to cumulative evidence of that kind coming in. I want to remove all issues from the case, as far as I can, because we all know these people really were spies that came here as saboteurs to do sabotage. Now that is that.

In the second place, the law requires in a treason case that no man can be convicted of treason without intending a traitorous and treasonable intent. You cannot convict a person by inadvertence. You cannot convict a person by merely doing something that is an unintelligent or negligent thing or something that is a stupid thing. You have to have a traitorous intent. Now the whole issue in this case, gentlemen, the one hundred percent issue in this case, has to do with the alleged traitorous intent. That is the only thing that we are going to try our level best to convince you gentlemen that Cramer did not entertain at any time, 23 and then, besides that, there are all these acts that are referred to, which are called overt acts. Now I am not going to attempt to be over detailed and specific as to each and every one of those, but I say this: the law requires, as Mr. Correa has indicated, in a treason case certainly very technical rules of proof. You remember he mentioned about these two witnesses that were required in the United States Constitution and rights in the statutes, and there is a great historical basis for that. Naturally I am going to take advantage of those legal technical rules as far as they may be applicable, but assuming that Mr. Correa can do what he says he is going to do, that he is going to comply with those technical rules as to the overt acts, I tell you that as far as this business of Mr. Cramer taking that money belt from Mr. Thiel and taking it around to his safety deposit box and putting the money in there and writing this note to Norma Kopf, and writing that note that was left at the Hotel Commodore, he did those things. I am not going to stand here and attempt to tell you things are not so when they are, and you may be assured that what is left of this case, and what our defense is based on is that when he did those things he hoped to convince you gentlemen that he, at no time, intended a traitorous intent; that far from knowing that those people were spies here to sabotage and to carry out this com- 24 mission of the German Government, he says he did not know that.

Now, how is one to convince twelve men in a jury box, and two

alternates, if a person's state of mind? That is what we are embarking on here. I want you to know it right from the beginning, that that is the issue and the sole issue. This is the way I am going to put it: first, I want to have you gentlemen understand certain chronology. I am not going to get into a lot of complicated dates, but my experience with juries is if you give them the dates to go by they will remember them and pick them up as the evidence comes in.

Now we start out that Cramer was born in Germany on October 5, 1900. Well, they are going to perhaps bring out, and I was a little surprised it was not referred to in Mr. Correa's opening, that Cramer was in the German Army. Now just do a little calculating, gentlemen: October 5, 1900. Where does that bring you in 1918? That brings you just a week or two before the Armistice, doesn't it? And he, as a boy there in Germany, was brought into the German Army just like every other young boy was. He did not have anything to do with it. As a matter of fact, the amount of time he spent in the German Army was about a week or ten days, or something of that kind, and then the war was over and he was out.

25 So there is his birthday, October 5, 1900. Now long after the war was over, conditions were pretty bad there in Germany and so he came over here in 1925. I am not going to try to tell you gentlemen that he came over here because he was fired with a great patriotism for the Stars and Stripes or for the American form of government or something of that kind, but he comes over here then the way so many hundreds of thousands of those people did because he wanted to find an honest way of making a living which he could not make over there, and you will hear him testify because my anticipation is he will be on the stand to tell you all this story himself. You are going to hear how he came over here; that it was a sister-in-law of one of his brothers who wrote letters over from Iowa, talking about the farming out there and how easy it was to make a living here compared with the terrible conditions that existed in Germany. That is how he came over, and that is 1925.

Then the next date we have here is the day he met this fellow Werner Thiel. It would have been a grace, or much better thing for the defendant, if he had never met him, because this is the first time that Anthony Cramer has ever had any contact with the law. His record has been just as good as any man's could be. We are going to show you that. He has never been in any kind of trouble before in his life until now. But in 1929 he met 26 this fellow Thiel out in Detroit. They were both working out there, one in one of these automobile factories and

another working in one of the others, and we are going to show you, and I am not going to take all the time to detail it here in the beginning, but we are going to show you how the friendship of these two humble workers developed, and one of the difficult things you gentlemen are going to have to do and one of the things I find it difficult to do, is to understand Mr. Cramer. He is of a different life than the rest of us. He lives a different life. He has been in a different sort of a world in a way. You have got to be fair to him, to try to understand him and try to understand how things look from his angle; very different, I can assure you, from the way those things look to the rest of us. So that friendship developed and went on for years. There were times when there was not a day in which Thiel and Cramer did not see one another. They would spend their evenings together. They roomed together for a considerable period of time. Mind you, long before there was any war on or any war expected. That is why I want you to remember that year of 1929. It not only meant the depression, it meant the meeting of Thiel and Cramer, and then it also affected them through the depression because there was no more work to do out in Detroit, and so they

27 came to New York, and you are going to hear all the story about that, but I want now to have that date of 1929 and the commencement of that friendship which took a normal ordinary time to develop, I want you to remember that.

The next date that I want to have you remember is 1934 to 1935. Now that was a time out in Hammond, Indiana, when Cramer was a member of that Friends of New Germany. He was out there. Thiel later went out there too. They knew practically no one else around that place, and so they joined, as he tells me, and as I will tell you, they joined that particular organization largely for the social recreation that they would have, and more than anything else. He tells me, and I believe the fact to be, that there was no drilling, none of this Bund business which developed in later years; none of that sort of aggressive business, but a recreational way in which these German-Americans could get together and drink their beer and have their exercises and their recreations, and then the next year, 1936, he became an American citizen.

Now why do I want to emphasize 1934 and 1935? It is because that is the only time, as we will prove to you, that this defendant ever had anything to do with any of these German organizations. We have all heard a lot about them. One of the curious things here, curious taking everything into consideration, and one

28 of the helpful things to Cramer, is that he has not had anything to do with those organizations since that single

years before he became a citizen, when he was out there in Hammond, Indiana, and we are going to show you that Thiel's development was a very different one. From those days onward, this man Thiel got further and further and deeper and deeper into this Nazi doctrine, into these pro-German activities, and into the Bund, and that and the other thing, and you are going to find, and surely if this were not so the Government could contradict it with the utmost ease—they have every possible facility to show these things are not true if they turned out not to be, and I believe if Mr. Cramer tells me so, he did not join the Bund or have anything to do with those organizations, but he had many a discussion and argument with Thiel, and on those matters their paths went in different directions.

Now those I say are things to bear in mind when you are dealing, as you must, with this man's state of mind. You have to think of those things.

In 1941, which is the last date I have to mention as such, except those specifically mentioned in the indictment, was the time that Thiel went back to Germany. He of course was not a citizen. Despite the friendship between these men, Thiel never gave up his German citizenship; never exhibited any desire to do so, and he went back to Germany in 1941, whereas Cramer did the opposite. So much for those dates.

* Now they lead up to a period and the only period so far as I know, that involves anything that it is claimed that Cramer did. I do not believe the Government is going to make any claim whatsoever, and indeed if they do we believe we will absolutely disprove it, to the effect that when Thiel went back to Germany there was any prearrangement with Cramer about doing any work for the benefit of the German Government and all that. In fact, as I understood Mr. Correa's opening, he made a frank disclaimer of that. You remember he used the expression "without any prearrangement," and I believe, as I read that indictment, they do not accuse Cramer of having made any such arrangement in advance, and that the fact is that he did not.

So that we come down to June 22, 1942, without any claim being made that Cramer did anything, so that there is where he starts to function, I say, so far as this indictment is concerned. Now that is terribly important, gentlemen, if it is so, and I feel sure that it is, and let me, in order to full out the little chinks there, go back a little bit.

Now you remember the statements that were made by Mr. Correa about what they were going to prove and as to motive and as to Cramer's disloyalty and as to his treasonableness and all that, Mr. Correa mentioned in connection with the

questions that had been put to you gentlemen before you were selected as jurors, about the isolationism and pro-Germanism and things of that kind; naturally you expect some statement from him on that, and I am making it because it is a very material thing: here is what I believe you are going to find the evidence will show, Cramer, of course, was born in Germany. He was a man whose natural sympathies were with the Germans. There is no doubt about that. Those are matters, as far as I can see, that were not only part of his fibre, part of his self, just as Canadians or Englishmen, or people of other nationalities would naturally and favorably be inclined to, people of their own race and their own birth, it seems to me a not unnatural think, and besides that we have here is contact with German-American people that he went around with, with German-Americans, and so over a period of time we have a lot of things that he did that I say, as far as being before Pearl Harbor is concerned, he had a perfect right to do, but it is so easy for you gentlemen to misunderstand that, or misinterpret that. I say it makes a difference. Maybe you won't take that view. I don't know. But in any event,

31 you are going to find that whatever Mr. Cramer indicated as to feeling and liking for German people, being with them and liking the Fatherland and being favorable to it, as contrasted with other countries, that there was a fight going on before Pearl Harbor, you are going to find some evidence of that kind and I ask you to hold your judgment in abeyance until you have heard it all, because you are going to have to consider, not merely whether Cramer has different ideas from yours, but whether his ideas are treasonable; whether his mind at the time he did those things entertained a traitorous and treasonable state of mind which, as has been indicated to you, is the worst crime of the whole catalogue of crimes known to our jurisprudence. It is not something you easily attribute to him without a good deal of evidence.

Now we come down to these specific things: what he is said to have done or what occurred in just one short week in June of this year. Mr. Correa says these people landed from submarines on June 15th and June 13th, I think, and that was not when Cramer came into the picture. He started in on June 22nd, which was a Monday, and on that fateful day for him there was slipped under his door—he was a man working over in a boiler room of this National Licorice Company, and you can tell by looking at him, and you will hear his whole life, of his work, he is a humble man,

32 he is a man who has worked in humble employments; he is not one of these smart fellows that you would expect to be part of a spy ring or anything of that kind—I do not believe they pretend he was—there he comes home after working on

the night shift and he is about to go to bed when he hears a knock on his door and somebody calls his name and he thinks probably it is some salesman and he does not pay any attention, and the note is slipped under the door and he picks up the note and, as Mr. Correa says, in substance, "there is a friend of yours from Chicago that is in town and wants to see you and meet me in the New York Central information booth at eight o'clock tonight." That was like a bolt out of the blue as far as Cramer was concerned; no prearrangement, no pretense of prearrangement. We have heard all that mentioned clearly in the indictment. I do not believe there was ever any. So he hesitates and finally goes down there and as he is about to leave, about ten minutes after eight—and if he had left at eight o'clock promptly when he was supposed to be there, this thing would never have happened, but he delays an extra ten minutes and he turns around and there was Thiel, and that is how the thing started.

I am not going to attempt to tell you and to burden my memory with each little detail of what occurred in that week, but he did meet with Thiel. We deny the allegations that they were counseling and aiding and abetting and all that sort of thing that involves a knowledge, because you remember our position is that he did not know, that he did not entertain the treasonable and traitorous intent, and he did go around to the Twin Oaks Tavern with this fellow Thiel, and the next night he was in there and Kerling was there, too, and this business of the money belt and taking it around to the safe deposit box, as I indicated to you before, those things were so.

Now there is a little detail that just may help a little bit here: Mr. Correa says that he concealed the money belt. One of the things that we are going to urge upon you, and we are going to prove as tending to show the lack of any traitorous intent, is the way in which Cramer kept everything that he had and saved for years around his room there. Some of those things may be material; some of them may not; but what I am saying to you now is that there was no attempt of any concealment. What did he do with the money belt? If he had thought he was part of some dangerous scheme that would perhaps lead to the electric chair, wouldn't he have destroyed that? Would he have left it around the room? There were various other things indicating these feelings favorable to Germany such as I have referred to here. He put it in his box where he had his shoe cleaning things. He was going to use it to shine his shoes with.

He had no more idea, as we hope to show you, that he was a part of some traitorous, dangerous spy ring here than anything at all, so that it is a characterization. You might call that concealing

Why, no; that is not concealing it at all. He put it in that box.

He might have thrown it in a wastebasket as well. He was not concealing it at all because anybody coming in there and looking around would find it, as they did find it. That is just a detail as to that.

Now you come down to the business about his whole life. I am not going to attempt to tell you all about it here in this opening, but I do want to tell you enough about it so that you will get some idea of what is coming.

He was born in a little bit of a town called Ollendorf, Germany, which is in Westphalia. It is so small that if you get a map of Germany out, even a pretty up-to-date map, you won't see it at all. It is maybe a little place of about eight hundred people, a farming district. His father was a farmer. His brothers, some of them, are now farmers, and the family is still at the same old place.

So he started out by that and then he worked in the mines a little while and then he worked in a shipyard turning flanges, and then he came over here and he has worked at about everything you can imagine; honest work, real labor; never been discharged in all these years he has been here.

Now we say, please listen to him. As you see him on the stand try to look into his mind and see whether you think really the man looks and acts and talks like a person who is a traitor. Try your level best, we beg you, to put yourself in his position. I have found that was hard to do as I prepared to defend him here. I do not know people like that. I have not had much to do with them. It is so hard to get their point of view. Now all we want you to do is try to do that to the best of your ability.

Now about this Norma Kopf. They speak about her in the indictment, and also in this opening. As they say, she was some kind of a member of a spy ring. I do not believe that is so at all. I think you are going to find when the Government calls her as a witness that she is just a plain ordinary service girl, and where she fits in this picture is that she was, as the defendant tells me, practically engaged to this man Werner Thiel. She and Thiel had been friendly for a long time. The anxiety of Thiel to see her and to get to speak with her again is perfectly natural under those circumstances. I do not think for a minute

that she is going to admit that she had some sort of spy activity which she was in or expected to be in or ever had anything to do with it at all; not a particle of it, and was either a friend of this man, but more particularly a friend of Thiel and this sending of the letter to tell her there was "great news" for her—I think the letter actually used the expression "sensational news"; it was something from Cramer's point of view which

was a wonderful thing for Norma to know Thiel was back, and they wanted to surprise her when they met, and he would see her, and it was decided not to mention that she would be surprised to see what they here want you to think. Maybe there is something sinister about it; maybe there is not. I do not know. All I ask is that you listen and hold your judgment in abeyance so that these people when they take the stand can be appraised by you.

They speak here about the submarine, and coming over on the submarines. Well, here is what the situation, as I understand it, is, and I am not going to attempt to give the wording of each of the conversations, but the substance of it is that there were two or three times during this week when Cramer and Thiel were together when Cramer said, "How did you get here? You must have come over by a submarine," and by the expressions that were used by Thiel, he said Well, you wait until we all get together with Norma and I will tell you the whole story about the thing." But it left the impression in Cramer's mind that perhaps he probably did come here that way, but he never knew from anything Thiel told him or that Kerling told him or anyone else told him, that these people were spies here with a mission of the German Government for the purpose of sabotage.

Now if you consider these conversations as I am telling them to you, and his reporting that to Norma Kopf, it is so easy for Norma to put it just a little differently. It does not need very much change to put a sinister bearing upon it; to make it look far worse. So when you hear her testify what the defendant told her, just use that same judgment that you use in your everyday affairs of life to see whether that is strictly accurate. Would she be likely to remember it exactly word for word? Is it something that perhaps has taken on a little different slant in her mind since that time? I do not know.

Anyway, there is the story.

We say there is one issue only in this case and that is the intent, the state of mind of this man, and bear in mind, as I conclude, you cannot find Cramer guilty because he was a fool, because he was stupid, because he was negligent or because he should have done something else if he had had any sense, or things of that kind. You have to find that that traitorous intent existed.

Perhaps there is one other detail I ought to mention because I think it is well for you to have it in mind as the proof comes in; of course there is going to be a lot of testimony about the money, how he counted the money; how he put it in the box, and some of it he put aside in a little different pile there, and all I am going to do here is to indicate to you, so you won't

be surprised when the evidence comes along, that over this period of years when Thiel and Cramer were friendly and intimate together, Thiel never was as careful and plodding a man as Cramer was, and so there were certain loans that Cramer made to Thiel, and it so happened that he had a little book and the F. B. I. people have that little book here and it is probably in court now, or it will be later anyway, in which those things were written down, those little loans, with the advances, and those loans come into the picture because when Cramer took this money around to a safe deposit box he as told by Thiel he could take the couple hundred dollars that was owing to him by Thiel and that financial element comes into the picture.

I want really the assistance of you gentlemen. You have fourteen minds here. You are going to listen to that evidence. You are going to think of a lot of things that won't occur to either

39 Mr. Correa, or I, or the Judge, but you are here to do justice to this man, and when you hear that evidence you will appraise it and fit it into this man's background, or what it possibly had to do with it.

I told you before we want to simplify the issue. I hope what I have said to you here this afternoon makes you feel sincerely that I mean that. No man could confine an issue to a mere mental operation unless he meant to simplify. It must be so. I say to you gentlemen further than that you are going to have no appeal in this case to your sympathy or to your emotion. The defendant here wants justice. He wants justice and no more and he wants it according to our American standards. There is going to be no talk about sentiment and no talk about emotion or that sort of business, nor are you going to have any of those attacks that make one so sick that so often come into these criminal trials upon these Government men. You are not going to hear me make up a cross-examination on these Government men, and make out that statements made by Cramer were made under duress or due to some monkey business; nothing of that kind. They treated him splendidly and they treated him fairly. I believe when these men do their duty, as they do it nowadays, their usefulness is enhanced by the fact that they are fair and they seek to find the truth and seek to do right. You are not going to hear me say anything to detract from that, so don't expect any of those silly fireworks that to my way of thinking prejudice defendants far more than they help.

Thank you.

The COURT. Mr. Correa, I understand that the Government and counsel for the defendant have planned to proceed with the testimony tomorrow morning and that the witnesses will not be available this afternoon.

Mr. CORREA. Yes, that was the suggestion made just before we adjourned for lunch by counsel for the defendant, and we acceded to that request.

The COURT. Yes.

Mr. MEDINA. We will start taking testimony tomorrow morning, your Honor. Yes, that was my understanding.

The COURT. That was what you suggested.

Mr. MEDINA. Yes, I did.

The COURT. That being so, we will adjourn this case until tomorrow morning at half past ten.

(Adjourned until Tuesday, November 10, 1942, at 10:30 a. m.)

41 [Title omitted.]

NEW YORK, November 10, 1942;
10:30 o'clock, a. m.

Trial resumed.

JEAN HURST, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct examination by Mr. CORREA:

Q. What is your occupation, Miss Hurst?—A. I am deputy clerk in charge of the Hammond, Indiana District Court.

Q. That is the United States District Court?—A. That is right, for the Northern District of Indiana.

Mr. CORREA. I will have this paper marked for identification, please.

(Marked "Government's Exhibit 1" for identification.)

Q. Mrs. Hurst, you have been subpoenaed, have you not, to bring here certified copies of certain records of the naturalization part of your office?—A. Yes.

Q. I show you Government's Exhibit 1 and ask you are these the papers included in that exhibit, not certified copies, which you have brought here pursuant to subpoena of the records contained in the court of which you are a deputy clerk [hand-
42 ing to witness]?—A. They are the certified copies.

Q. And they are the naturalization papers relating to the naturalization of one Anton Cramer?—A. That is right.

Q. And they are all the papers in the files of the court relating to that naturalization?—A. All that we have in our office.

Mr. CORREA. May I ask that this be marked—

The WITNESS. Just a minute.

Q. Do you have any objection to their being marked?—A. Yes, sir; that is from our files. The same information is on the back of the petition.

Mr. CORREA. May this paper be deemed marked, in view of the fact that it is part of the records of the court of Indiana?

The COURT. Yes.

(Deemed marked "Government's Exhibit 2" for identification.)

Q. I show you this paper which has been deemed marked Government's Exhibit 2 for identification [handing to witness], and ask you if that is also a part of the records in your court pertaining to the naturalization of Anton Cramer?—A. That is right; it is.

Q. Referring to the signature appearing at the bottom of 43 this printed form which is Government's Exhibit 2 for identification, under the practice obtaining with respect to records of this kind in your court by whom is that signature written?—A. By Anton Cramer.

Q. That is, by the person applying for naturalization?—A. That is right; yes.

Mr. MEDINA. That is the defendant's signature.

Mr. CORREA. In that event, if your Honor please, I would like to offer, assuming counsel for the defendant will agree, just a certified copy of the naturalization papers, and not Government's Exhibit 2, which is a part of the original records of the court, and which I take it this young lady wishes to return to the records.

The WITNESS. That is right.

Mr. MEDINA. If your Honor please, it is agreeable to us to have either or both offered, or if Mr. Correa desires a photostatic copy to be made of this card and substituted for the card, that is entirely agreeable. And we make no objection to the proceeding, in whatever manner he desires.

Mr. CORREA. I take it, if your Honor please, that in view of the concession concerning the signature on Government's Exhibit 2, it is conceded these are the records of the naturalization of this defendant Anton Cramer in Hammond, Indiana, at the date there.

44 Mr. MEDINA. I have not examined the paper marked 1 for identification. The concession I made had to do with the card. But if I take a moment to examine this paper I have no doubt I will make a similar concession as to this.

Mr. CORREA. All right. Judge, in view of the fact this paper ought to go back to the court if it can, I suggest that we take a moment to give counsel time.

The COURT. Do you withdraw the offer of Exhibit 1 for identification?

Mr. CORREA. I had not marked Exhibit 2, Judge, and the offer of Exhibit 1 is pending while counsel examines the exhibit.

Mr. MEDINA. These are all right, Mr. Correa.

Mr. CORREA. I take it there is no objection to the offered exhibit.

Mr. MEDINA. There is not, to either or both of them. There is no objection whatsoever.

Mr. CORREA. Is it conceded, sir, these papers relate to the naturalization of this defendant?

Mr. MEDINA. Yes.

Mr. CORREA. You will note the name is Anton Cramer.

Mr. MEDINA. Yes; but that is the name that he signed there, and of course the difference is purely verbal.

Mr. CORREA. Then, if your Honor please, I also offer a photostatic copy of Government's Exhibit 2 for identification.

Mr. MEDINA. No objection.

(Government's Exhibits 1 and 2 for identification now marked in evidence.)

Mr. CORREA. I will return the originals to the witness. Thank you [handing to witness].

If your Honor please, may I call the jury's attention to this exhibit without reading it at length, because they are naturalization papers.

(To jury): Members of the jury, Government's Exhibit 1 is the naturalization file of the District Court for the Northern District of Indiana located at Hammond, Indiana, relative to the naturalization of Anton Cramer, who according to the stipulation of counsel is identical with the defendant in this case. The naturalization according to the records was made on November 9, 1936, and the certificate was issued contained in the naturalization papers, and signed and sworn to according to the papers under that date is the oath of allegiance of the defendant Anthony Cramer. The oath reads: [Reads from exhibit.]

Exhibit 2 in evidence, which is another record of the clerk's office, a form indicating the date of issuance of the certificate of naturalization, indicates that was issued November 9, 1936, to Anton Cramer residing at St. Lazarus Hospital, 50 Clinton Street, Hammond, Indiana.

Mr. MEDINA. May I inquire as to your Honor's pleasure with reference to our commenting on certain portions of the exhibits? I would prefer if your Honor will permit it to call such parts of the exhibits to the attention of the jury later, when we are in the defendant's case. But of course I shall follow whatever direction your Honor makes.

The COURT. I think that is better.

Mr. MEDINA. Thank you.

Mr. CORREA. I have no further questions of this witness.

Mr. MEDINA. No questions.

47 ERNEST PETER BURGER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr CORREA:

Q. Where were you born?—A. Augsburg.

Q. And where is that?—A. Germany.

Q. And when?—A. September 1st, 1906.

Q. When, for the first time did you come to the United States?—A. 1927.

Q. And where did you enter the United States?—A. New York.

Q. In the port of New York?—A. That is correct.

Q. How long did you remain in the United States on that occasion?—A. Until 1929.

Q. Where did you go then?—A. I went back to Germany on a short visit.

Q. Did you return to the United States?—A. I did.

Q. When did you return the second time?—A. In September 1929.

Q. And you remained until when?—A. Until 1933.

Q. Did you then again visit Germany?—A. I went back to Germany.

Q. Did you come to the United States again?—A. I did.

Q. When?—A. 1942.

Q. Did you at any time after you returned to Germany
48 in 1933 join the armed forces of the German Government?—A. I did.

Q. When?—A. 1941.

Q. When in 1941?—A. In August.

Q. What branch of the armed forces did you join?—A. Infantry.

Q. Of the army?—A. That is correct.

Q. While you were serving in the infantry of the German army did there come a time when you volunteered for special duty?—A. That is correct.

Q. When did that time come?—A. In March 1942.

Q. What did you do?—A. I volunteered for a special assignment.

Q. Did you receive any such assignment at that time?—A. I did.

Q. At what time?—A. In March 1942.

Q. What was the assignment you received?—A. I received a transfer to a group of volunteers for a special assignment.

Q. Were you sent any place in particular at that time?—A. Not at that time.

Q. Did there come a time when you were sent somewhere in connection with this special assignment?—A. That is right.

Q. When was that?—A. In April.

Q. Where were you sent?—A. To a town near Berlin; Brandenburg.

Q. Brandenburg?—A. That is correct.

Q. Where in Brandenburg were you sent?—A. To an estate near Brandenburg.

Q. Who was at the estate near Brandenburg?—A. A group of volunteers which took part in our special assignment.

Q. And what did you do at this estate near Brandenburg?—A. We received certain instructions.

Q. Was that a school of some kind?—A. It was a course.

Q. A training course?—A. That is correct.

Q. How many others were there at the time you were there?—A. Seven.

Q. Seven others?—A. That is right.

Q. Could you tell us their names?—A. George Dashi, Heinrich Heinck, Richard Quirin, Herbert Haupt, Edward Kerling, Neubauer, and Werner Thiel.

Mr. COMEA. I would like to have marked for identification these photographs.

(Marked "Government's Exhibits 3 to 10" inclusive for identification.)

Q. You mentioned as being at this school Edward Kerling?—A. That is right.

Q. Was his full name Edward John Kerling?—A. I believe so.

Q. And Werner Thiel, did you say?—A. Werner Thiel.

Q. What instructions did you receive at this school; you and these other seven?—A. We received instructions concerning our assignment.

Q. Can you tell us more specifically just what you were instructed?—A. We were instructed on chemical combinations; the use of chemical combinations, and—that is all.

Q. You say you were instructed in chemical combinations; what kind of chemical combinations?—A. Incendiaries and explosives.

Q. And how were you instructed in the use of such chemical combinations; their use for what purpose?—A. For damaging the American light metal industry.

Q. Was any metal industry in particular mentioned to you at this school?—A. Yes; aluminum.

Q. I show you Government's Exhibits 3 to 10 inclusive for identification, being eight photographs, and you will note the identification numbers on the backs. Would you be good enough

to look at them and tell me, referring to the number on the back, if you are able to, of whom each photograph is a representation?—

A. No. 6, Werner Thiel.

Q. That is Government's Exhibit 6 for identification.—A. No. 5, Edward Kerling; No. 4, Herman Neubauer; No. 3, Herbert Haupt; 10, myself; 9, George Dash; 8, Richard Quirin; 7, Henry Heineck.

Q. How long did you remain at this school?—A. From the 10th or 11th of April until the 1st of May.

Q. And on the 1st of May, where did you go?—A. I went back to Berlin.

Q. Did the others go with you on that time?—A. They all went on a vacation.

Q. And were you on vacation at that time?—A. I was.

Q. How long was your vacation?—A. Until the 12th of May.

Q. And after your vacation where did you go?—A. We visited certain plants; aluminum plants.

Q. Where did you report after your vacation?—A. In Berlin.

Q. And were the others there then?—A. That is correct.

Q. And then what did you do after that?—A. We visited certain plants; aluminum plants.

Q. Aluminum plants located where?—A. In Germany.

Q. And what happened on those trips?—A. We were instructed on certain machines and institutions of these different plants.

Q. What were you instructed concerning the plants that you visited?—A. We studied the vulnerable spots and points.

Q. Vulnerable spots?—A. That is correct.

52 Q. And how long were you on that trip?—A. Three or four days.

Q. When you returned, to where did you return?—A. To Berlin.

Q. And then what happened?—A. Then we left for Paris.

Q. Before you left Berlin for Paris did you receive any instructions?—A. We received our equipment and certain instructions.

Q. You say you received equipment. What equipment did you receive?—A. We received explosives.

Q. In what form, sir?—A. Different forms.

Q. Were you given boxes of explosives?—A. That is correct.

Q. And were you shown before you were given the boxes what kind of explosives were contained in them?—A. That is correct.

Q. Were you given any other equipment on that occasion?—A. We received our uniforms and shovels.

Q. What kind of uniforms did you receive?—A. German uniforms.

Q. Of what kind?—A. Navy infantry.

Q. Navy infantry?—A. That is correct.

Q. And let me ask you, while you had been in training at this place you mentioned near Berlin, had you been in uniform or civilian dress?—A. We were partly in uniform and partly in civilian dress.

Q. On the occasion in Berlin which you are now describing where you received your instructions, were you and the others in your group all in uniform or civilian dress?—A. Civilian clothes.

Q. Now, sir, I show you a photograph and ask you do you recognize the material that is depicted there?—A. No.

Q. That is a photograph of some boxes. I ask you to examine it. Have you seen boxes similar?—A. That is correct. Boxes similar.

Q. But you cannot say whether those are the identical boxes that you saw or not?—A. Absolutely not.

Q. And where did you see boxes which looked like those?—A. In Berlin.

Q. And that is the way the boxes of explosives you were given looked?—A. They looked similar.

Q. At the time they were given to you?—A. At the time they were given to me.

Mr. CORMEA. I ask to have that photograph marked as the next exhibit for identification.

(Marked "Government's Exhibit 11" for identification.)

Q. Now, sir, what was contained in those boxes at the time you received them? Will you indicate as closely as you are able to recall?—A. The boxes contained blocks of explosives wrapped in paper.

Q. What kind of explosive was in the block wrapped in paper?—A. I could not tell you the chemical combination.

Q. What else was contained in the boxes?—A. Time device fuses, detonators, and fountain pens.

Q. You say fountain pens. What kind of fountain pens?—A. Fountain pens which contained instead of ink, sulphuric acid.

Q. And had you received instructions for the use of such fountain pens?—A. I did.

Q. And what were your instructions as to the use of them?—A. They were used as igniters.

Q. Were those fountain pens to be used alone or in connection with some other?—A. They could be used alone and could be in connection with a pencil.

Q. That is, a pen and pencil set?—A. That is correct.

Q. Did your equipment include any such pen and pencil sets?—A. That is right.

Q. Was there anything else included in your equipment that you recall now?—A. There was a number of different igniters and explosive equipment.

Q. Were any fuse—A. Detonation fuses.

Q. Was there any explosive in a form other than in block-wrapped in paper?—A. There was one type of explosive made up like a coal block; like a piece of coal.

55 Q. Made in the shape of a lump of coal?—A. That is correct.

Q. I show you this next photograph and ask you do the objects set forth there—are they similar or the same in appearance as some of the material you received?—A. They were similar in appearance.

Q. Similar in appearance to what, sir?—A. To the blocks we received.

Q. You refer to these blocks here [indicating]?—A. That is right.

Q. Were the blocks you received wrapped in paper as these appear to be?—A. Correct.

Q. And when opened did they look as the one opened here looks?—A. That is right.

Mr. CORREA. I ask to have this marked for identification.

(Marked "Government's Exhibit 12" for identification.)

Q. And is that true as well, sir, of the blocks appearing in this other photograph [handing]?—A. It is.

Mr. CORREA. I ask to have that marked as Government's Exhibit 13.

(Marked "Government's Exhibit 13" for identification.)

Q. I ask you the same question with respect to this photograph: are the objects represented there similar in appearance to
56 the materials you received?—A. That is correct; similar.

Q. And that is true as to the blocks again; is that correct?—A. Yes.

Q. And is it true as to this black—A. Coal blocks; yes.

Q. And coils of wire or fuse—A. Fuse.

Q. They are fuses?—A. Detonation fuses.

Q. Can you identify the black coil as a standard fuse?—A. I identify them as similar.

Q. And the white coil as similar to the detonation fuses you received; is that correct?—A. Correct.

Mr. CORREA. I ask to have this marked as the next exhibit.

(Marked "Government's Exhibit 14" for identification.)

Q. I shall ask you to look at this next photograph which I show you, and look closely, if you will, and tell me whether the objects represented there are similar to the objects or the materials which you received?—A. Yes; they are similar.

Q. And you refer particularly to what?—A. To these fountain pen sets.

Q. They seem to include there two pens; or a pen and pencil?—A. Pen and pencil.

Q. Pen and pencil sets.—A. Yes; detonators with fuses; detonators in the wooden blocks.

Q. Yes?—A. And lighters for fuses. That is about all.

Q. The object appearing on the extreme left—A. I never saw that.

Q. You never saw anything similar to that?—A. No.

Mr. CORREA. I ask to have this marked for identification.

(Marked "Government's Exhibit 15" for identification.)

Q. I show you this next photograph and ask you is the object appearing therein similar to one of the objects you received?—

A. It is similar to a lump of coal; similar to the rocks we received.

Q. You say similar to a lump of coal?—A. Yes.

Q. Was the rock you received really a lump of coal?—A. It was not.

Q. What was it?—A. It was explosives.

Q. Made up to resemble a lump of coal?—A. Correct.

Q. Did the ones you received have a hole in them as appears in the one photographed here?—A. That is correct.

Q. What is the purpose of the hole in it?—A. To put a detonator in.

Mr. CORREA. I ask to have this marked as the next exhibit.

(Marked "Government's Exhibit 16" for identification.)

Q. Now would you take this batch of photographs and just tell us as to each one whether or not the articles depicted there resemble any of the articles which you received on this occasion in Berlin which you have described?—A. This first picture resembles fuses; of course I cannot tell if they are the same fuses we had, but similar.

Q. They look like the ones you were given; is that the point?—A. That is right.

Mr. CORREA. May that be marked for identification.

(Marked "Government's Exhibit 17" for identification.)

The WITNESS. This looks like a detonation fuse.

Mr. CORREA. I ask to have that marked.

(Marked "Government's Exhibit 18" for identification.)

The WITNESS. This [handing to counsel] resembles different types of detonators and igniters.

Q. Showing me the next photograph, you say different types of detonators and igniters.—A. This [handing counsel] is an electric igniter. A picture of detonators protected by a wooden block.

(Photographs marked for identification "Government's Exhibits 18 and 19.")

Q. You say this photograph is an electric igniter [indicating]?—A. That is correct.

Mr. CORREA. I ask that it be marked "Exhibit 20" for identification.

(Marked "Government's Exhibit 20" for identification.)

Q. You say this photograph [indicating] is a picture of what?—

A. Detonators protected by wooden blocks.

Q. You mean they were set in these wooden blocks?—A. Yes.

Q. Is that the form in which you received detonators?—A. That is correct.

Mr. CORREA. I ask that this be marked "Exhibit 21" for identification.

(Marked "Government's Exhibit 21" for identification.)

The WITNESS. Electric igniters [handing counsel].

Q. This is a picture of an electric igniter?—A. That is right.

60 Q. Similar to the kind you received?—A. Similar.

Mr. CORREA. I ask that it be marked "Exhibit 22" for identification.

(Marked "Government's Exhibit 22" for identification.)

The WITNESS. That [handing to counsel] is a number of time clocks—similar.

Q. Are these clocks so made that they can be used in connection with detonators and fuses?—A. Yes.

Q. For time explosion?—A. That is correct.

Mr. CORREA. I ask that that picture last identified by the witness be marked "23" for identification.

(Marked "Government's Exhibit 23" for identification.)

The WITNESS. This [handing to counsel] is a time device.

Q. These cartridges, as they appear to be, are time devices?—A. Time devices.

Q. And the writing appearing on the top of the box pictured in the photograph refers to what, sir?—A. To the time, 70 minutes times.

Q. And you received similar boxes of time devices?—A. I received this same box.

Q. This you recognize as being the same box?—A. As the same box; that is correct.

Q. How do you recognize that, sir?—A. By the writing.

61 Q. By the writing appearing on the box "70 minutes"?—

A. Yes.

Mr. CORREA. I ask that this be marked 24 for identification.

(Marked "Government's Exhibit 24" for identification.)

The WITNESS. Containers of sulphuric acid [handing photograph to counsel].

Q. Referring to this photograph you have just referred to now, as picturing containers of sulphuric acid, the containers are these objects [indicating]?—A. Yes, and those [indicating].

Q. Is that the way they were packed, in this white material?—A. That is it.

Q. That was contained in the two boxes; is that correct?—A. That is correct.

Mr. CORREA. I ask that they be marked Exhibit 25 for identification.

(Marked "Government's Exhibit 25" for identification.)

Q. And this next photograph you say is a close-up of one container of sulphuric acid?—A. Yes.

Mr. CORREA. I ask that that be marked Exhibit 26 for identification.

(Marked "Government's Exhibit 26" for identification.)

Q. And this last photograph which I have handed to you?—A. Our pen and pencil sets which we had along.

62 Q. And those are the pen and pencil sets for incendiary use, which you described before? is that correct?—A. That is correct.

Mr. CORREA. I ask that that be marked Exhibit 27 for identification.

(Marked "Government's Exhibit 27" for identification.)

Q. Now, sir; you have told us that you were given uniforms on this occasion. Is that correct?—A. That is correct.

Q. And that the uniforms were as you said the navy infantry uniforms?—A. Correct.

Q. I show you this cap [handing to witness], and ask you is that the type?—A. Yes.

Q. The kind of uniform cap which you received?—A. That is right.

Q. Can you tell whose cap that is by looking at it?—A. I cannot tell you that.

Q. Did you all receive caps of that kind?—A. We did receive caps of that type.

Q. I show you four other caps [handing to witness]; and ask you are they, too, caps of the same kind? You may look at them.

A. Exactly the same type.

Mr. CORREA. If your Honor please, I should like to mark this last group of four caps for identification, and with the consent of counsel for the defendant I should like to substitute for them a photograph of them, inasmuch as the original exhibits themselves are not available to us for use beyond today.

Mr. MEDINA. I have no objection to any substitution of photographs for the originals, but I think, as your Honor must have gathered from my opening statement, our position is that this issue has been removed from the case. And I shall not object to a description within reasonable bounds, by this witness, of their mission and how they came over here, and what they planned to do. I think that is strictly relevant and admissible within reasonable bounds. I shall object to the use of a lot of exhibits, that the foundation seems to be now attempted to be laid with respect to, on the ground that the issue is substantially not in the case. They will in my judgment be prejudicial to the defendant, they will divert the attention of the jury from the real issues, and a multiplication of that sort of thing passed around among the jury and examined and thought of from moment to moment I really do not think will be fair to the defendant. As I say, I will consent to the use of photographs. I intend to do everything I can to facilitate within reasonable bounds, but I do not want that concession to be misunderstood.

64 Mr. CORREA. If your Honor please, so far as this group and this evidence is concerned, it is the Government's position that the Government is entitled, and indeed is under a burden of showing, as it has charged, that the men who, according to our charge, gave aid and comfort were in truth and fact enemies, and what kind of enemies they were. It seems to me any person who knowingly gives aid and comfort to an enemy of the United States in time of war does so at his peril. He cannot subsequently come and say, "Well, I knew he was an enemy, but I didn't know he was exactly that kind of an enemy. I thought he was some other kind of enemy."

The COURT. I understand there is no objection to the photographs of the caps.

Mr. MEDINA. No; and I may say, your Honor, what Mr. Correa has mentioned is not our point at all. We admit, and as I tried to in my opening indicate, the relevancy of showing that they had this mission and that they came over to do it. We do not deny the relevancy of that. It is the repetition, the rubbing of it in, and the elaboration of it, in view of our concession.

The COURT. I do not think, Mr. Medina, there has been any elaboration so far.

Mr. MEDINA. No; I did not say there had been.

The COURT. If that takes place I will meet it.

65 Mr. MEDINA. Yes; I only made the point because I was making a concession as to the use of the photographs, and I did not want that concession to be misunderstood. That is all, your Honor.

Mr. CORREA. May these four caps, then, last identified by the witness, be deemed marked for identification.

(Deemed marked "Government's Exhibit 28" for identification.)

Mr. CORREA. May the one cap be marked 29 for identification, also identified by the witness.

(Marked "Government's Exhibit 29" for identification.)

Mr. MEDINA. Those are just offered for identification, as I understand it?

Mr. CORREA. At this time they are not offered in evidence. That is correct.

By Mr. CORREA:

Q. Were you given any other equipment at this time in Berlin, besides the caps and the explosives which you described?—A. We received uniforms.

Q. Well, the uniforms of course.—A. We received also some shovels.

Q. For what purpose were those given to you?—A. Our instruction was immediately after landing to bury the boxes with explosives on the shore. For that purpose we received shovels.

Q. I show you this object—which I will ask to have deemed marked Government's Exhibit 30 for identification—and ask you do you recognize that, sir, (handing to witness)?—A. I do.

Q. Is that one of the shovels you received?—A. That is correct.

Q. How do you identify that particular shovel, sir?—A. Because I made the rope around it, I attached the rope, and in addition it is the exact type.

Q. You attached the rope or cord here?—A. That is correct.

Q. And you recognize it that way?—A. Yes, sir.

Q. And you said in addition what?—A. It was the exact type of shovels we received. It is rather an unusual type.

Mr. CORREA. Will these still be deemed marked, without the tags attached to them Government's Exhibits 31 and 32.

(Deemed marked "Government's Exhibits 31 and 32" for identification.)

Q. I show you Government's Exhibits 31 and 32 (handing to witness), and ask you, sir, are those shovels similar?—A. That is correct.

Q. To the ones you received?—A. That is correct.

Q. You are not able to identify them as being among the shovels handed to this group; is that correct?—A. That is right.

Q. Is that a German army shovel?—A. I don't know. I don't think so. It is not a standard type anyway.

Q. How many shovels were given to the entire group?—A. Four.

Q. Were you at this time or at any time split into two groups?—

A. Before we left Berlin we were split into two groups.

Q. Was that before or after you were given this equipment, sir?—A. That was before.

Q. What was the make-up of the two groups?—A. The first group consisted of George Dasch as leader of the first group, Heinck, Quirin and myself, as members of this group; and the second group consisted of Kerling as the leader, Haupt, Thiel and Neubauch.

Q. And the second group included Werner Thiel; is that correct?—A. Werner Thiel.

Q. And Kerling was the leader of it?—A. That is correct.

Q. For example, as to the shovels, how many shovels were given to each group?—A. Two.

Q. And how many boxes of explosives, if you recall?—A. Four. Four boxes to each group.

Q. Were you given anything else at Berlin before you left for Paris in connection with your assignment?—A. To the groups, you mean? Or to myself personally?

Q. To the individual members of the groups.—A. No.

Q. You said you left Berlin then for Paris; is that correct?—A. That is correct.

Q. Will you just tell us what you did from there?—A. From Paris we went to Lorient.

Q. Where is that located, sir?—A. That is on the French coast. Lorient, and we finally went on to a submarine.

Q. Before you come to that, while you were at Lorient did you receive anything further in connection with your mission?—A. In Lorient we received final instructions and money.

Q. And money?—A. That is right.

Q. In what form did you receive the money?—A. I myself did not receive any money at the time. I was shown money but did not receive it. But the second group received their money in Lorient before they left.

Q. Were you present when the second group—that was Kerling's group, was it?—A. That is right.

Q. Received their money.—A. I was present.

Q. In what form was the money given to them?—A. They had—we all had money belts which contained around \$5,000 each. Besides that the second group received each man about \$400 in small denominations.

Q. And you were present when those money belts with the money in them were handed to the second group?—A. That is correct.

Q. What was done in the case of your group?—A. We received our money on the submarine.

Q. When did you receive your money belts?—A. Before we landed. One day before we landed.

Q. You received the money in the belts; is that correct?—A. That is right.

Mr. CORREA. I will ask that this object be deemed marked Exhibit 33.

(Deemed marked "Government's Exhibit 33" for identification.)

Q. I show you Government's Exhibit 33 for identification [handing to witness], and ask you if you can tell me what that is?—A. It is one of the money belts we received. In fact it is my own.

Q. You can identify that as being your own money belt, sir?—A. Yes.

Q. How do you identify this as being your own money belt?—A. Because I signed it with my initials.

Q. Will you point that out to me?—A. [Witness indicates.]

Q. Referring to the initials "E. P. Bu"; is that correct?—A. That is correct. *

70 Mr. CORREA. I ask to have this next one marked for identification Government's Exhibit 34.

(Marked "Government's Exhibit 34" for identification.)

Q. I show you Government's Exhibit 34 for identification, and ask you is that a money belt of the same kind and type as was given to the members of Kerling's group?—A. Yes, it is a money belt about the same type.

Mr. CORREA. I will ask to have this other one marked Government's Exhibit 35 for identification.

(Marked "Government's Exhibit 35" for identification.)

Q. I show you Government's Exhibit 35 for identification [handing to witness], and ask you is that another money belt of the same kind and character as was given to the members of Kerling's group?—A. It is a money belt of the same type.

Mr. CORREA. If your Honor please, with respect to the exhibit which has been deemed marked "Government's Exhibit 33" for identification, which is the money belt that the witness has identified as being his own by his initials which he placed thereon—

Q. By the way, Mr. Witness, when did you place those initials on the belt?—A. In Berlin.

Mr. CORREA. Again I should like to ask that we be permitted to substitute a photograph of this belt.

71 Mr. MEDINA. We will be very glad to make that concession, your Honor.

Mr. CORREA. We will have a photograph made, Judge, which

we will ask to have marked 36 for identification when it is made. It will be here this afternoon.

The COURT. This Exhibit 35, what is that?

Mr. CORREA. It is another money belt, your Honor. There are three money belts marked for identification.

The COURT. Are 34 and 35 similar?

Mr. CORREA. 34, 35, and 33 are similar, Judge, and have so been identified by the witness.

Q. Now, sir, you stated that you departed from Lorient by submarine; is that correct?—A. That is correct.

Q. Which group left first?—A. Kerling's group.

Q. Did you see them go?—A. No.

Q. Where were you staying at the time?—A. We stayed at a hotel.

Q. And did you see them leave the hotel?—A. I did.

Q. Did you and the members of your group give them any assistance?—A. Yes, we did.

Q. In what connection?—A. We helped them carry down the equipment and we said goodbye to them.

72 Q. And did you see them again after that?—A. I did.

Q. In this country?—A. Yes, sir; I did.

Q. And that was the next time you saw them, is that correct?—A. That is correct.

Q. So when did your group leave?—A. On the 28th.

Q. Of May?—A. May.

Q. Will you tell us what you did?—A. Pardon me?

Q. Will you tell us what you did?—A. Why, we also left the hotel, boarded the submarine and left Lorient.

Q. What happened next?—A. On the night of the 13th of June we landed on the shore of Long Island.

Q. How did you effect your landing?—A. By a small rubber boat which brought us from the submarine to the shore.

Q. Did you also row your equipment ashore?—A. That is correct.

Q. And what did you do then?—A. We took our boxes and equipment out of the boat, buried the boxes in the sand on the shore and changed our clothes and finally went to the railroad station at Amagansett and left for Jamaica.

By the COURT:

Q. What time of the day or night did you reach the Long Island shore?—A. On the night of the 13th of June.

Q. About what time?—A. Between twelve and one o'clock at night.

73

By Mr. CORREA:

Q. You mean twelve or one of the 13th, sir? You mean the early morning of the 13th or early morning of the 14th?—A. The early morning of the 13th, I believe.

Q. You say after landing and burying this material you proceeded to Jamaica?—A. Correct.

Q. And how were you dressed at that time?—A. In civilian clothes.

Q. Which you had brought with you?—A. Which I had brought with me.

Q. And that was true of the other members of your group?—A. That is correct.

Q. And what did you do in Jamaica?—A. We bought new clothes because our suits were soaking wet, and proceeded to New York.

Q. Subsequently were you apprehended by the Federal Bureau of Investigation?—A. That is correct.

Q. And when were you apprehended?—A. On the 20th of June.

Q. Were you subsequently brought to trial?—A. Correct.

Q. At Washington, D. C.?—A. Yes.

Q. Before a military commission?—A. That is right.

Q. Did you see any of the other eight there on that occasion?—A. I did.

Q. Who was there?—A. All of us.

74 Q. That is, all of the other seven, rather?—A. That is correct.

Q. Was that the first time you had seen the members of Kerling's group since they left France?—A. That is correct.

Mr. CORREA. You may inquire.

Mr. MEDINA. No questions.

LEON O. PRIOR, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. CORREA:

Q. What is your occupation, Mr. Prior?—A. I am a special agent of the Federal Bureau of Investigation.

Q. Referring to July of 1942, to what office were you assigned?—A. Miami, Florida.

Q. Did you on or about July 1, 1942, receive certain instructions?—A. I did.

Q. From whom did you receive them, sir?—A. Assistant Director E. J. Connolly.

Q. After receiving those instructions what did you do?—A. I proceeded to Jacksonville, Florida, and from Jacksonville to a point south of Ponte Vedra Beach, approximately four and one-quarter miles.

75 Q. When you arrived at this point four and one-quarter miles south of Ponte Vedra Beach, what did you do there, sir?—A. I dug in the sand.

Q. And when you dug in the sand at this point what did you find, anything?—A. I uncovered four German marine caps and two trench shovels.

Q. I show you a Government's exhibit, which has been deemed marked "Government's Exhibit 28" for identification, of four caps, and ask you are those the caps you found on this occasion?—A. These are the four caps that I uncovered at the Ponte Vedra Beach.

Q. I show you Government's Exhibits marked for identification 31 and 32, and ask you are those the shovels you say you found?—A. Yes. These are the two shovels that I uncovered at the same spot.

Mr. CORREA. You may inquire.

Mr. MEDINA. No questions.

D. J. PARSONS, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. CORREA:

Q. Your occupation, Mr. Parsons?—A. I am a special agent of the Federal Bureau of Investigation.

Q. How long have you been such, sir?—A. Approximately nine years.

76 Q. And to what office or department of the Bureau are you assigned?—A. I am assigned to the technical laboratory of the Bureau.

Q. Sir, what kind or type of work are you engaged in doing in the technical laboratory of the Bureau?—A. My duties consist of the examination of evidence received in criminal cases, particularly with reference to evidence including explosives, sabotage devices and similar materials, and so forth.

Q. And what, again speaking generally, kinds and types of examinations and analyses of such evidence do you make?—A. They consist of chemical analyses, microscopic examinations and physical tests of the material.

Q. How long have you been engaged in that work?—A. My entire period of service with the F. B. I.

Q. And prior to entering the F. B. I. did you have scientific

training of any kind, sort or character?—A. I did. I graduated with the degree of Bachelor of Science in Chemistry from the Georgetown University.

Q. And during your term of service with the F. B. I. have you made any other studies?—A. I have. In connection with my interest in explosives and similar materials I have consulted and worked in other laboratories for explosives, testing grounds, and so forth.

Q. I show you a series of photographs which have been marked "Government's Exhibits 12, 14, 15, 13, 11, 16, 25, 26, 27, 17, 20, 19, 18, 21, 22, 23, and 24" for identification, they all being photographs, and I ask you to examine those photographs and tell me whether or not you have seen the material depicted therein before?—A. I have seen all of this material before and these photographs were taken under my supervision.

Q. Where first did you see that material, sir?—A. On the Florida beach, 4.3 miles south of Ponte Vedra.

Q. And was that material dug out of the sand at that point?—A. It was.

Q. Were you present when it was dug out of the sand?—A. I was.

Q. Who was present on that occasion?—A. Edward Kerling, assistant director E. J. Connolly, and other agents of the Federal Bureau of Investigation.

Q. Prior to the material being dug out of the sand had Edward Kerling done anything?—A. He had.

Q. Will you tell us what he had done?—A. He led us from the road to a spot just off the beach and indicated to us a spot in the sand at which point we uncovered the boxes of explosives.

Q. Now, you referred to Edward Kerling. I show you a photograph which has heretofore been marked "Government's Exhibit 5" for identification and ask you whether or not that is a picture of the man to whom you refer as Edward Kerling [handing]?—A. Yes, sir.

Mr. CARRA. Now, if your Honor please, in connection with the further testimony of this witness concerning these materials, I should like to offer at this time these photographs 11 to 27 for identification, in evidence.

Mr. MENNA. May it please the Court, I should like to state our position as to this. We object to them and we will object, as I indicated in my opening, to similar proof, and with your Honor's permission I should like to elaborate the basis for my objection.

The COURT. I think I understand it. You have made the point before.

Mr. MEDINA. Well, we do not wish to urge it except on general terms, if your Honor does not wish me to, but I think it a rather important point from the standpoint of the defense, and if you think that elaboration of it in the presence of the jury might be prejudicial to the Government I shall be very glad to have the jury withdraw.

The COURT. I do not know whether it would be prejudicial to either side or helpful to either side. I look at it as a question of law.

Mr. MEDINA. All I wish to do is place my point on the record, your Honor, and I don't want to do it in a way that is in any sense objectionable. On the other hand I do think it is important and my right to place the position that we have plainly on the record so that I may not need to be getting up again and again when a similar thing is produced.

The COURT. You may do so. State the grounds of your objection. I don't think we need to go into an extended argument.

Mr. MEDINA. And I shall not do that. Now we object to them as incompetent, irrelevant and immaterial—

The COURT. I would suggest that you just state your grounds simply.

Mr. MEDINA. I shall try to, your Honor: we object on the ground that the evidence is irrelevant, immaterial, and incompetent, and specifically upon the ground that in view of the concession made here, and in view of the proof by the witness Burger, which would seem to cover the field thoroughly and comprehensively, we believe that evidence as to such details as appear in these photographs and other similar evidence that may be produced a little later, will have an amount of effect out of all proportion to its true judicial worth and will be prejudicial to the defendant; it will confuse the issues and it will get, inevitably, the minds of the jurors away from what is the central and simple issue, and is bound, particularly when accumulated here, to do so. We have a large number of photographs; there are many other things of a similar character that will be produced, and the effect of all that will be to accumulate, as it seems to us, prejudicial matter on the grounds that I have stated.

And, of course, as Mr. Minton calls to my attention, too, there is no pretense or claim that the defendant had anything to do with these matters. He came in, according to the concession made by Mr. Correa in his opening, at a later time. If there were some contention that he was connected with this scheme or this plot, it would be different, but there is no such claim.

Mr. CORREA. If your Honor please, I should like to reply particularly to that last, which I think is a misapprehension of the Gov-

ernment's position. First, the material is offered at this time, subject to connection it is true, in that we will establish that this is the material which was brought over by the group of which Edward John Kerling and Werner Thiel were members, and we will connect specifically Edward John Kerling and Werner Thiel with the defendant Cramer as being the enemies of the United States that Cramer aided. I might point out that at the very time Cramer was aiding these enemies of the United States, this material was secreted, as the proof of this witness shows, in the sands of Florida, and secreted there for use by the same enemies of the United States, Werner Thiel and Edward John Kerling, who, as our proof will demonstrate, the defendant Cramer was aiding.

I submit there is no concession whatever by the Government, far from it; that Cramer is not connected with this plan. Our contention is that Cramer is very closely identified with the plan in giving aid and comfort to the men who put this material here with the intention of using it.

Mr. MEDINA. If your Honor please, Mr. Correa's statement is exactly what I claim he said. They do not claim Mr. Cramer had any part in this planning over in Berlin, or had any contact with these men as they got off of this submarine or participated in the plot and scheme there. Mr. Correa merely claims that later Mr. Cramer had to do with Thiel and Kerling in New York; not that he had any participation in any of this plot, and so we must earnestly urge the objection upon your Honor.

Mr. CORREA. I point out, if your Honor please, that at the time Cramer had to do with Thiel and Kerling in New York, what counsel chooses to call a plot or plan, whatever he wishes to call it, was still under foot. The very material we are discussing here, and we are not discussing something in Berlin but in the sands on the coast of Florida, waiting there to be used; neither Kerling nor Thiel had been apprehended and the gravamen of Cramer's offense was in that he aided and comforted them in furtherance of that purpose which was to use this material, and I think we are entitled to show what the material was and how it could be used.

The COURT. I think they should be received, Mr. Medina.

Mr. MEDINA. I respectfully except.

The COURT. There is one point I would like a little explanation about. You objected on the ground that they were incompetent. Did you mean there was a lack of proof?

Mr. MEDINA. No, I do not object on the ground that the photographs have not been properly identified. I might well object upon that ground but I do not. I do not raise any such point as that.

The COURT. Then there is nothing in your objections on the ground that they are incompetent.

Mr. MEDINA. Well, I use that general phrase that we lawyers are so accustomed to, just as a sort of catchall, but with no endeavor to raise the technical question of lack of identification of the photography.

The COURT. I did not want to be caught in that category.

83 Mr. MEDINA. No. I would never have claimed any such thing as that.

Mr. CORREA. I take it it is understood, Judge, because this is one case where I think we are disabled from bringing the original exhibits here.

Mr. MEDINA. May I note my exception to your Honor's ruling. (Government's Exhibits 11 to 27 inclusive for identification received in evidence.)

(Short recess.)

By Mr. CORREA:

Q. Now, sir, one question first: you said the point at which you found this material was about 4.3 miles—A. 4.3 miles.

Q. From Ponte Vedra?—A. From Ponte Vedra beach.

Q. How far was it from Jacksonville, Florida?—A. Just a little over thirty miles.

Q. And after the material was found on the beach did you there, or subsequently at some other place, make a further examination of it?—A. I did.

Q. And did you make an examination with a view to ascertaining the quality and nature of the materials found there?—A. I did.

Q. By the way, in what form was the material at the time you found it? That is, was it packaged in any way?—

84 A. It was. All of the material was contained in four wood boxes which were bound with metal strips.

Q. And you subsequently made an analysis of that at the laboratory, is that correct?—A. I did.

Q. Will you tell us generally what materials there were in there; that is, if you would list the kinds of materials that were contained in those four boxes or packages?

Mr. MEDINA. I renew the objection that I made a few moments ago, your Honor, on the same grounds.

The COURT. The same ruling.

Mr. MEDINA. Exception.

A. There were in the four boxes blocks of trinitro toluol, or TNT, as it is familiarly known, which is a high explosive, blocks containing explosions made to simulate lumps of coal, safety fuse, a standard fuse which is used to set off explosions; detonating

fuse, which is used to connect charges of explosives that are to be set off simultaneously; detonators of several kinds, those set off electrically, as well as detonators to be set off by fuse; adapters to permit the use of the fuse with other detonators or incendiary igniters; there were small incendiary devices or incendiary igniters; fuse lighters, small instruments used to ignite the safety fuse; wood blocks containing detonators both of the standard type and of a special type which were threaded; electrical devices for setting off the special detonators; timing devices, both mechanical and chemical; time devices constructed or concealed as pen and pencil sets, and a paper pen containing an abrasive mixture.

Q. Could you tell us approximately how many blocks of TNT were included in this material?

Mr. MEDINA. May it please the Court, may I be deemed to have objected to this entire line so that I will not have to interrupt?

The COURT. Yes; Mr. Medina.

Mr. MEDINA. Thank you. And I respectfully except to your Honor's ruling.

A. There were 46 blocks of the TNT, each block weighing one kilogram, or approximately 2.2 pounds.

Q. I think you mentioned that there were blocks; was this TNT made in the form of a lump of coal?—A. In addition to the 46 demolition blocks of TNT there were four of the so-called coal blocks containing TNT.

Q. And what were they made of besides the TNT?—A. The explosive side of the TNT was covered with a black plastic material to give it the appearance of a lump of coal.

Q. And you mentioned various detonators and incendiary devices?—A. Yes.

Q. Can you tell us approximately how many there were of each type?—A. Yes; there were 25 electric detonators; that is, small metal tubes filled with a charge of a violent explosive which is set off by connecting them to a battery or other source of electrical energy. There were 75 fuse type detonators which were contained in wood blocks which were sealed. There were 50 detonators of a special type which were threaded to permit their use with a chemical or mechanical timing device, and there were 25 threaded igniters or incendiary devices contained also in wood blocks.

Q. I will show you Government's Exhibit 11 and ask you if that is a photograph of the containers or of the material as you found it?—A. This is a photograph of the four boxes before opening, and after they were removed from the beach.

Mr. CORREA. May the jury see that?

The COURT. That is exhibit what?

Mr. CORREA. Exhibit 11 in evidence, your Honor. [Exhibit handed to the jury.]

Q. Now I show you Exhibits 12 and 13 and ask you what is set forth therein?—A. Photographs 12 and 13 show two of the boxes after they had been opened and the photograph portrays the wood boxes, the metal liners which were soldered or hermetically sealed, and in each photograph 18 T. N. T. demolition blocks which were individually wrapped in paper.

86-A Q. And in each photograph one block appears unwrapped, is that correct?—A. That is correct. [Government's Exhibits 12 and 13 handed to the jury.]

87 Q. I show you Government's Exhibit 14 in evidence [handing to witness] and ask you what is set forth in that picture?—A. This photograph, Government's Exhibit 14, shows the third wood box after it had been opened, the metal liner, ten more of the TNT demolition blocks, the four bombs made to simulate lumps of coal, four coils of safety fuse and one coil of detonator fuse.

Q. Now I show you, sir, Government's Exhibit 15 [handing to witness] and ask what that represents?—A. Government's Exhibit 15 is a photograph showing the fourth box after it had been opened, the metal liner, and the contents, which consisted of the various detonators, igniters, the delay devices, and the abrasive.

Q. And Government's Exhibit 16 [handing to witness]?—A. Government's Exhibit 16 is a photograph of one of the bombs constructed to simulate a lump of coal.

Q. By the way, I note on Government's Exhibit 16 there appears a rule with the notation of 2 inches, in a graduated scale.—A. That is correct. The scale was placed in the photograph to show the size of the coal bomb.

Q. How many such coal bombs were there did you say?—A. There were four in this lot.

88 Q. I show you Government's Exhibit 17 in evidence [handing to witness], which is a photograph of several coils of wire, and ask you what it is?—A. Government's Exhibit 17 is a photograph showing the four coils of safety fuse and the one coil of detonating fuse.

Q. And Government's Exhibit 18 [handing to witness], which is another coil?—A. Government's Exhibit 18 is a photograph of a piece of a detonating fuse, which is also shown in Government's Exhibit 17.

Q. That is a close-up of the same fuse; is that correct?—A. This is a close-up of a piece of detonating fuse; yes.

Q. And Government's Exhibit 19 [handing to witness]?—A. Government's Exhibit 19 is a group photograph of the det-

onators, igniting devices, and accessories contained in the lot of explosive material.

Q. And Government's Exhibit 20 [handing to witness]?—

A. Government's Exhibit 20 is a close-up photograph of one of the electric detonators which is shown in photograph Exhibit 19 at the upper center.

Q. The center of these three groups; is that correct?—A. That is correct.

Q. That is a close-up of one of those detonators?—A. It is.

Q. Show you, sir, Government's Exhibits 21 and 22 [handing to witness].—A. Government's Exhibit 21 is a close-up photograph showing one each of the three types of wood blocks which are also shown in Government's Exhibit 19, and these blocks each contain a different type of detonator or igniting device. The block shown in the center contained five— it is one of the blocks containing five commercial type fuse detonators. The block on the right is one of those each of which contained five of the special type threaded detonators, and the block on the left which has been opened is one of those each of which contained five of the special incendiary igniters.

Q. That is Government's Exhibit 21?—A. Yes.

Q. Now Government's Exhibit 22 is a close-up, is it not, of one of these?—A. It is. Government's Exhibit 22 is a close-up photograph of one of the electric matches, which is also shown in Government's Exhibit 19. It is a small device which will accommodate either the threaded detonator or threaded igniter, in order that they may be set off electrically.

Q. And this too is photographed with a rule?—A. It is.

Q. To indicate its size; is that correct?—A. Yes.

Q. Now Government's Exhibit 23 [handing to witness].—

A. Government's Exhibit 23 is a photograph of ten mechanical timing devices one of which is wrapped in paper, the other nine having been unwrapped. In addition there is also shown the box in which these devices were packed, the caps and primers for these time devices, which provide a delay of fourteen days, in setting off a delay explosive or incendiary.

Q. That is, they could be set to explode or ignite a charge fourteen days from the time they were set?—A. Yes sir.

Q. You call them mechanical timing devices. Are they similar to a clock mechanism?—A. A time clock or mechanical time device. Either description is correct.

Q. Now, sir; as to Government's Exhibit 24, which is identified by the witness by some writing appearing on the top of the box depicted there [handing to witness].—A. Government's Exhibit 24 is a box containing ten chemical delay devices, which are small

brass and plastic instruments providing a delay of approximately an hour to 70 minutes. The base of these devices are threaded to accommodate the detonator or incendiary igniter.

Q. You say these provide a delay of an hour to 70 minutes?—

A. Approximately that.

Q. Was that notation "70 Minuten" which appears on the top of the box on the box when it was found?—A. It was.

Q. I show you, sir, Government's Exhibits 25 and 26 [handing to witness] and ask you first is it not true that Exhibit 26 91 is a close-up of one of the objects depicted in Government's Exhibit 25?—A. It is.

Q. What were those objects; will you describe them?—A. Government's Exhibit 25 is a group of glass ampules each containing a quantity of sulphuric acid to be used with the chemical delay shown in Government's Exhibit 24; and photograph Government's Exhibit 26 is a close-up of one of these ampules of sulphuric acid.

Q. That is, they are used in connection with the delay devices which you said operated on a 60 or 70 minute period of delay?—A. That is correct.

Q. By the way, referring again to Government's Exhibit 25, does that show the way in which these ampules of sulphuric acid were packed?—A. The photograph shows the box after it was opened. The bottom and top of the box are now empty. The white powder was contained in the boxes as a protective medium for the capsules.

Q. Now, sir, I show you Government's Exhibit 27 [handing to witness] and ask you what the material depicted there is?—A. Government's Exhibit 27 is a group photograph of the five pen and pencil time delay devices which are contained in this equipment.

Q. Would you state, sir, how this pen and pencil set is used. You have told us what its function was, but how were those particular sets usable?—A. It is necessary to combine the 92 pen and pencil in order to use it as a delay mechanism. The cap of the pen is removed and the top and clip of the pencil are also removed. The threads of the pen will then fit into the body of the pencil, and the point of the pencil when removed reveals threads which will accommodate either a detonator or an incendiary igniter. The end of the pen when twisted will start a chemical delay action which varies in this equipment from two and three-quarter hours to 13 hours, depending upon which set is used, and after that period of delay the chemical delay reaction will set off either a detonator or igniter.

Mr. CORREA. You may inquire.

Mr. MEDINA. No questions.

GROVER D. BUSHMAN, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Mr. Bushman, what is your occupation?—A. Immigrant inspector, Ellis Island, New York.

Mr. GOODKIND. I would like to have this sheet marked for identification.

(Marked "Government's Exhibit 36" for identification.)

Q. Mr. Bushman, I show you a sheet of paper marked 93 Government's Exhibit 36 for identification [handing to witness] and ask you whether that was furnished by you pursuant to subpoena?—A. It was; yes.

Q. Is that an official record of your bureau?—A. Yes, sir.

Q. That is a form supplied by the Immigration and Naturalization Service?—A. A form supplied to the Immigration and Naturalization Service. The form; yes; it is.

Q. Is that maintained by your bureau in the regular course of business?—A. It is.

Q. Does this record contain any entry relating to Edward Kerling?—A. It does; yes.

Q. What kind of record is this, Mr. Bushman?—A. It is the outward bound manifest of the particular steamer.

Q. What does an outward bound manifest show?—A. It shows the names of the passengers who sailed on the vessel in question.

Q. Together with other information?—A. Yes.

Mr. MEDINA. I make no objection to this as far as it goes, your Honor. It does refer to an Edward Kerling, which may well be the same man; and I do not know whether it may be connected up later or not, but so far as it goes we raise no objection, and we will

take under advisement whether in the event it should not be 94 connected we will make a motion to strike. I make the same statement so far as there is an entry with reference to Neubauer, one of the other men referred to by the witness Burger.

Mr. CORREA. I offer this in evidence, Government's Exhibit 36 for identification.

(Government's Exhibit 36 for identification marked in evidence.)

Mr. MEDINA. I may say for the entire trial as far as the substitution of photostats for exhibits we make a blanket concession as to that. If it should turn out, as it may, as to one or two, that the photostats show the thing so faintly as not to be entirely clear, I am sure we will have no difficulty in working out some appropriate machinery for doing that. So that they need not ask me each time about the substitution of the photostat for the original.

By Mr. GOODKIND:

Q. Mr. Bushman, Government's Exhibit 36 in evidence you described as an outgoing manifest?—A. Yes, sir.

Q. Listing passengers for what steamship?—A. For the steamship "Exochorda."

Q. On what date?—A. Departed from New York July 11, 1940.

Q. Bound for?—A. Bound for Lisbon, Portugal.

Q. Is this a true record of the boat as it was received by your office?—A. It is. It shows received August 5, 1940.

Q. Is that a time stamp of your office?—A. It is.

Q. Will you point out to me the entry relating to Edward Kerling?—A. No. 16 on the first sheet.

Q. Is there also an entry relating to a Herman Neubauer?—A. No. 11; yes.

Mr. GOODKIND. With the Court's permission I will read the entry relating to Edward Kerling.

(To jury:) This manifest shows that passenger No. 16, Edward Kerling, age 31, male, citizen of Germany, departed on the steamship "Exochorda" on July 11, 1940, from New York bound for Lisbon, Portugal. It states that the "Country where you are going to live permanently" is Germany, that he was born in Germany, that he lived in Germany before coming to the United States, that he last arrived in the United States in February 1936 at New York. It shows that he is German, and he claims divers occupations, and that he is married.

With the consent of counsel for the defendant we will substitute a photostat of this page for the exhibit.

I would like to have this page marked for identification.

(Marked "Government's Exhibit 37" for identification.)

96 By Mr. GOODKIND:

Q. Mr. Bushman, I show you a bound sheaf of papers, and indicate to you one of those sheets, a double sheet marked "Government's Exhibit 37" for identification [handing to witness], and I ask you whether that was also furnished by you pursuant to subpoena?—A. It was; yes.

Q. Is that also an official record of your bureau?—A. It is.

Q. And a record maintained by the Immigration and Naturalization Service in the regular course of business?—A. Yes, sir.

Q. What kind of a document is that?—A. It is a manifest; a passenger manifest of an incoming boat.

Q. That is an incoming manifest; is that right?—A. Yes; that is true.

Q. Is that sheaf of papers one manifest?—A. It is; yes.

Q. And the indicated page lists some of the passengers; is that right? The page marked for identification.—A. That is true.

Q. Does this page marked "Exhibit 37" for identification contain an entry relating to an Anton Cramer?—A. It does; yes.

Mr. MEDINA. No objection.

Mr. GOODKIND. I will offer Government's Exhibit 37 for identification in evidence.

97 (Government's Exhibit 37 for identification marked in evidence.)

Q. Mr. Bushman, Government's Exhibit in evidence 37 is a page from an incoming manifest of what steamship?—A. The steamship "Ohio."

Q. Arriving where, on what day?—A. Arriving at the port of New York, July 27, 1925.

Q. Will you indicate to me the entry relating to Anton Cramer?—A. No. 5.

Mr. GOODKIND. With your Honor's permission I will read part of the entry to the jury.

(To jury:) This is a manifest of the steamship "Ohio," arriving at New York from Hamburg on July 27, 1925. It indicates that No. 5 on this page of passengers is Anton Cramer, age 24, a farmer, a national of Germany and a German. His last permanent residence Allendorf, Germany, his mother Maria Cramer; that he is bound for Iowa and is entering as a permanent resident; that he bears an immigration visa given to him at Cologne No. 12798 on the 3rd day of May 1925.

With the leave of the Court I will substitute a photostat of these pages.

(Sheet marked "Government's Exhibit 38" for identification.)

Q. Mr. Bushman, Government's Exhibit for identification.

98 No. 38, is that also a record furnished by you pursuant to subpoena?—A. It is; yes.

Q. Is that an official record of your bureau?—A. It is.

Q. Maintained in the regular course of business?—A. Yes, sir.

Q. What kind of record is that?—A. This is also an outward bound passenger manifest.

Q. Does that contain any entry relating to an Anton Cramer?—A. It does.

Mr. MEDINA. No objection, your Honor.

Mr. GOODKIND. I offer Government's Exhibit 38 for identification in evidence.

(Government's Exhibit 38 for identification marked in evidence.)

Q. Mr. Bushman, this Exhibit 38 in evidence again is a sheaf of papers. Does that constitute one manifest?—A. It does.

Q. And the particular page which has been marked lists some of the passengers; is that correct?—A. That is true; yes.

Q. For what steamship is this a manifest?—A. This is the steamship "Bremen."

Q. Departing from what port?—A. Departing from New York, June 14, 1936.

Q. And will you point out to me the entries relating to Anton Cramer?—A. [Witness indicates.]

9:00 Mr. GOODKIND. With your Honor's permission I will indicate that to the jury.

Mr. MEDINA. I take it, your Honor, these last two exhibits are only offered and received insofar as there are entries relating to Mr. Cramer.

Mr. GOODKIND. That is correct.

(To jury:) The entry shows that amongst the third class passengers on the steamship "Bremen" sailing from New York, June 14, 1936, bound for Bremen, Germany, is the passenger Anton Cramer, 35 years old, male, a citizen of Germany but a permanent resident of the United States, born in Germany and lived in Germany before coming to the United States, who last arrived in the United States in 1925. It indicates that he is a German; an engineer by occupation.

Again with the assent of counsel I substitute a photostat of this page.

The COURT. That shows that he returned to Germany in 1936; is that it?

Mr. GOODKIND. Yes, your Honor; indicating on the record that the country where he will live permanently is the United States.

The COURT. Was that a round trip?

Mr. GOODKIND. The next half of it is coming up.

The COURT. The next shows his return to this country?

Mr. GOODKIND. This record merely shows the departure. I now ask the clerk to mark this paper for identification.

(Marked "Government's Exhibit 39" for identification.)

By Mr. GOODKIND:

Q. Mr. Bushman, I show you Government's Exhibit 39 for identification [handing to witness] and ask you whether that is a record furnished by you pursuant to subpoena?—A. Yes, sir.

Q. Is this also an official record of the Immigration and Naturalization Service?—A. It is; yes.

Q. Is it maintained by your bureau in the regular course of business?—A. Yes, sir.

Q. What kind of a document is this?—A. This is an incoming manifest; passenger manifest of the steamer.

Q. Is the whole sheaf one manifest?—A. The whole bound.

Q. The bound sheaf of papers is one manifest?—A. Yes.

Q. And the double page which has been marked has some of the passengers; is that correct?—A. Yes.

Mr. MEDINA. No objection.

(Government's Exhibit 39 for identification marked in evidence.)

Q. Mr. Bushman, Exhibit 39 in evidence is the incoming manifest of what steamship?—A. Of the steamship "Stuttgart."

Q. Sailing from where?—A. Sailing from Bremen.

Q. And arriving?—A. At the port of New York September 12, 1936.

Q. Will you indicate to me an entry relating to Anton Cramer?—A. [Witness indicates.]

Mr. GOODKIND. (to jury). This manifest indicates that among the passengers sailing on the steamship Stuttgart from Bremen, Germany, and arriving in New York September 12, 1936, is No. 24, Anton Cramer, 35 years old, an engineer, national of Germany and a German, and born in Germany in Allendorf, coming in with a re-entry permit No. 1099632 over the number 1098814. It indicates that his last permanent residence is Hammond, Indiana; that his brother, Josef Cramer, in Allendorf, Germany, the address where he last was, is his nearest relative, and the country from which he comes. That his final destination is Hammond, Indiana, and that he was in the United States previously during the period 1925 to 1936.

Again with the leave of the Court I substitute photostats of these pages.

You may inquire.

Mr. MEDINA. No questions.

102 ERNEST E. SALISBURY, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Mr. GOODKIND. I ask to have this paper marked for identification.

(Marked "Government's Exhibit 40" for identification.)

Q. Mr. Salisbury, what is your occupation?—A. I am Chief of Certifications Branch in the Immigration and Naturalization Service in Philadelphia.

Q. Is your office in Philadelphia the lodging place for the centralization of records of the Immigration and Naturalization Service?—A. That is correct.

Q. I show you Government's Exhibit for identification No. 40

[handing to witness], and ask you if this is a record furnished by you pursuant to subpoena?—A. That is correct.

Q. Is this one of the records of the Immigration and Naturalization Service?—A. Yes, sir.

Q. Is it maintained by your office in Philadelphia?—A. Yes.

Q. In the regular course of business?—A. Yes.

Q. Does this record relate to one Werner Thiel?—A. Correct.

Q. What kind of a record is this, Mr. Salisbury?—

103 A. That is the immigration visa that was given to—

Q. Well, it is an immigration visa; is that correct?—A. Yes, sir.

MR. MEDINA. We have no objection, your Honor, and I may say that as to many of these purely formal matters, I am sure that we could facilitate the Government's case considerably by making any reasonable concession as to formalities and official documents and things of that kind.

THE COURT. I think that would save quite a lot of time.

MR. CORREA. I think we are about through with them, your Honor.

THE COURT. Are you?

MR. CORREA. Yes.

MR. GOODKIND. I offer Government's Exhibit 40 for identification in evidence.

(Government's Exhibit 40 for identification marked in evidence.)

By Mr. GOODKIND:

Q. Mr. Salisbury, Government's Exhibit 40 in evidence is this an immigration visa furnished to Werner Thiel?—A. That is right.

Q. Does it contain on the back an entry by the immigration officer at the time of the entry of the person bearing the visa?—A. That is correct.

Q. And is this the entry [indicating]?—A. That is the entry.

Q. Does it also bear on the front a picture of the bearer of the visa Werner Thiel?—A. That is correct.

MR. GOODKIND. I indicate to the jury the entry by the officer. The immigration visa bearing the picture of Werner Thiel, an entry on the back thereof by the immigration officer certifying that Werner Thiel arrived in the United States at the port of New York on the 26th day of April 1927 on the steamship *Cherland*, and was admitted.

If your Honor please, we do not at present have a photostat of this exhibit, but we will have, and when we do we will ask leave of the Court to substitute it.

THE COURT. That is satisfactory.

Mr. MEDINA. I am not sure that I heard that, but I imagine it is a request to substitute photostats later, and that is all right.

The COURT. Yes, that is it.

Mr. MEDINA. The exhibit I take it will remain here until the photostat is substituted, and even if it is not, it is all right with us.

(Paper marked "Government's Exhibit 41" for identification.)

Q. Mr. Salisbury, Government's Exhibit 41, for identification, is that also a record furnished by you pursuant to subpoena (handing to witness)?—A. Correct.

Q. Is that also an official record of the Bureau of Immigration and Naturalization?—A. Yes, sir.

Q. Maintained in Philadelphia in the regular course of business; is that correct?—A. Yes, sir.

Q. What is this document?—A. It is the immigration visa relating to Edward Kerling.

Mr. MEDINA. No objection.

(Government's Exhibit 41 for identification marked in evidence.)

Q. Mr. Salisbury, Government's Exhibit 41, in evidence is an immigration visa furnished to Edward Kerling; is that correct?—

A. Correct.

Q. Does it indicate where it was furnished to him?—A. At Cologne, Germany.

Q. Does it bear a picture of the person to carry the visa?—

A. Correct.

Q. Does it contain an entry on the back by the immigration officer admitting the person with the visa?—A. It does.

Mr. GOODKIND. With your Honor's permission I will indicate the entry to the jury. (To jury.) Gentlemen of the jury, this

is a visa of Edward Kerling bearing the picture on the front, an entry on the back by the immigration officer cer-

tifying that Edward Kerling arrived in the United States at the port of New York on March 5, 1929, on the steamship Dresden and was admitted as quota immigrant.

Again with the consent of counsel, at a later date when the photostat is ready I will ask leave to substitute.

Q. Mr. Salisbury, have you made a search of the central records of the Immigration and Naturalization Service in Philadelphia to ascertain whether there are there any entries or any information showing an entry by Edward Kerling to the United States in the year 1940?—A. There is no such record.

Q. And 1941?—A. We can find no such record.

Q. Or 1942?—A. There is no such record.

Q. Have you caused to have made or yourself made a search of the same type relating to Werner Thiel?—A. I have.

Q. Does that search disclose any information indicating that Werner Thiel entered the United States in the year 1940, 1941 or 1942?—A. I can find no such record.

Mr. MEDINA. No questions.

197 REGINALD MARTIN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Reginald Martin, are you also known as Pat Martin?—

A. Yes.

Q. Pat, how old are you?—A. Fifteen.

Q. Where do you live?—A. 497 1/2 159th Street.

Q. Where is that?—A. That is South Jamaica Project.

Q. Is that South Jamaica Project, Long Island?—A. Yes.

Q. Do you also work as a shoeshine boy?—A. Yes.

Q. Where do you usually shine shoes?—A. On the corner of 161st Street.

Q. Is that in Jamaica?—A. Yes.

Q. And do you have a box and roam the streets with it?—A. Yes.

Q. Now, Pat, I want to show you two pictures which are Government's Exhibits in evidence 9 and 10. Will you look at those pictures and tell us whether or not you have ever seen the men of whom those are pictures?—A. Yes, I did.

Q. And when was that?—A. That was some Saturday back in June.

Q. And what time of day was it?—A. Morning.

Q. And where were you?—A. Shining on the same corner.

198 Mr. GOODKIND. May the record indicate that the witness has identified pictures which have been previously identified as pictures respectively of Bush and Burger.

The Court. Are they in evidence?

Mr. CONNLY. No, they are not, Judge. They are just used for the purpose of identification.

Q. Now, Pat, on this Saturday morning in June, were you alone or was someone with you?—A. Somebody was with me.

Q. Who?—A. Another boy by the name of Donald Boges.

Q. Where did you see the men?—A. On the same street I was shining.

Q. Did you notice anything about their appearance at that time?—A. Yes; their shoes was wet and we asked for a shine.

Q. And did you give them a shine then?—A. No, not then.

Q. Did you see them again?—A. Yes.

Q. And when was that?—A. That was about ten thirty.

Q. And how long after the first time you saw them was the sec-

and time?—A. That was about twenty-five minutes after; half an hour.

Q. And did you notice anything about their appearance at that time?—A. Yes, they had new shoes.

Q. And what did they do?—A. They came—they told us to shine them and we shined them.

109 Q. And when you were through shining, what happened, if anything?—A. They left the old shoes there.

Q. They gave you something?—A. Yes, they gave us the other shoes.

Q. They gave you what?—A. The shoes. They gave us the other package.

Q. The package?—A. Yes.

Q. Did you open the package?—A. Yes.

Q. And what did you find in it?—A. I found shoes and socks.

Q. And were they wet or dry?—A. They were wet.

Mr. GOODKIND. You may inquire.

Mr. MEDINA. No questions.

FRED W. SPEER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Mr. Speer, where do you live?—A. Jacksonville, Florida.

Q. What is your occupation?—A. Assistant manager of the Mayflower Hotel.

(Documents marked "Government's Exhibits 42 to 50" inclusive for identification.)

110 Q. Mr. Speer, I show you Government's Exhibit for identification 42, and ask you whether that is a record furnished by you pursuant to subpoena?—A. It is; yes, sir.

Q. Let me show you this group of exhibits marked for identification 42 through 50, and will you look at each one and tell us whether each one is a record furnished by you pursuant to subpoena?—A. Yes, sir; all of them are.

Q. And are they all records of the Hotel Mayflower?—A. They are.

Q. In Jacksonville?—A. That is correct.

Q. And are these records kept by your hotel in the regular course of business?—A. They are.

Q. I show you Government's Exhibit 42 for identification and ask you what kind of a record that is?—A. That is a registration card we call it; in other words, when a guest comes in the hotel for a room, they have to register on that card.

Q. And I show you Exhibit 43 for identification, and ask you

what kind of a record that is?—A. That is the same thing; a registration card.

Q. And I show you Exhibits 44 and 45 for identification and ask you what kind of records they are?—A. These are what we call rooming slips; that is, made up by me when a guest is sent to the room. It is a record we keep of their baggage and their name and the bellboy.

111 Q. And Exhibit 46 for identification?—A. That is a local telephone call; a charge slip, in other words.

Q. And does that show the room from which the call emanated?—A. That shows the room and the place that was called on there; yes, sir.

Q. I show you Exhibits for identification 47 and 48, and ask you what kind of records those are?—A. One is a bellboy's record that is kept by the bell captain of each boy's errands; that is his runs up-stairs for the rooms and when he comes back we keep a record.

Q. Does it show the room number to which the boy went?—A. Yes; it shows the room number, the boy's number and the type of service he gave.

Q. And does it show anything as to the time when he went to the room and came back?—A. Yes; it does.

Q. And does it bear the date?—A. It bears the date and the time.

Q. And what is Exhibit 48 for identification?—A. That is the bellboy's record sheet. The other is a porter's record sheet. That is the porter's record showing baggage down and that is the record showing baggage up [indicating].

Q. And Exhibits 49 and 50 for identification, what are they?—

A. Those are account cards. In other words, the record
112 of the guest's money spent with us, the charges, and money paid us is kept on that.

Q. And does the first entry on such a card indicate the time when a guest checks into the hotel?—A. No; it indicates the date. It does not indicate the time.

Q. And the last entry, does that indicate the date when the guest checks out?—A. That is correct. That is when they pay us and check out and then we time-stamp it when they check out.

Q. And does it bear the name of the guest as well as the room number?—A. It bears the name of the room number, the date, and the rate and the city they are from, and any other information that we need on that account.

Q. Is it the practice of your hotel if two guests come in together to make any entry on their respective cards?—A. I don't understand you.

Q. Is it the practice of your hotel, if two guests come in together but take separate rooms, to make any notation on the ledger card?—A. Well, if they are together, yes, sir; we do.

Q. What kind of notation do you make?—A. What we call cross information. In other words, if two guests have separate rooms, on each card we put "See" the other room on there.

Q. Now, Mr. Speer, I show you a picture which is marked 113 "Government's Exhibit 5" for identification, and ask you whether you have ever seen the man of whom this is a picture?—A. Yes, sir; I have.

Mr. GOODKIND. May the record indicate that the witness identifies a picture which has been identified as the picture of Edward John Kerling.

Q. Where and when did you see this man, Mr. Speer?—A. I saw him shortly after—well, it was about two o'clock, I imagine, on the afternoon of the 17th, the date that the guest known as Haupt and Thomas registered in our hotel.

Q. Where did you see him?—A. He came up to the desk and asked me for the room numbers of Herbert Haupt and Thomas.

Mr. GOODKIND. You may inquire.

Mr. MEDINA. No questions.

Mr. MEDINA. Now it may be that you will later offer some documents here concerning which the presence of the witness may be necessary. I do not know as to that because I have not seen these papers. Perhaps if the witness is allowed to go back to Florida we may get into some kind of a jam. So far as I know, I have no questions to ask at all, but I may say further that if these papers which they wish to offer later merely show that this man came to the hotel there, I am going to have no objection to that, but 114 if they go into a lot of things that the documents show as to bellboys and other people going up and hearing this and hearing that, I may have some objections, but I hope not.

Mr. COBBIN. There is no secret what we are going to show, Judge. We are going to tie the documents up by handwriting and other testimony to prove who this William Thomas was and where his companion was, and who the man was that called for them. That has already been identified I take it as Edward John Kerling.

Mr. MEDINA. If that is all it is, we are going to make no objection at all.

Mr. GOODKIND. And I take it there is no objection to this witness returning to Florida.

Mr. MEDINA. None I can see, and I have the assurance of the Government that there is no little entry somewhere around with these cards that does more than establish what has been indicated.

Mr. GOODKIND. That is correct.

Mr. MEDINA. Very good. That is all right.

Mr. GOODKIND. Counsel indicate they would like Mr. Speer to remain until this afternoon, but thereafter they will not require his presence.

The COURT. Then we will adjourn, gentlemen, until two o'clock.
(Recess until 2:00 p. m.)

115

AFTERNOON SESSION

GARNETT ANDREWS, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Mr. Andrews, where do you live?—A. I live in Jacksonville, Florida.

Q. And what is your occupation?—A. I am manager of the Seminole Hotel in that city.

(Paper marked "Government's Exhibit 51" for identification.)

Q. Mr. Andrews, I show you Government's Exhibit 51 for identification and ask you whether that is a record produced by you pursuant to a subpoena?—A. Yes; it is.

Q. Is this a record of your hotel, the Seminole?—A. Yes, sir.

Q. And is this a record kept in the regular course of business in the hotel?—A. Yes.

Q. What kind of a record of business is it?—A. That is the transient ledger card on which the financial account of the guest is kept.

Q. Does that indicate on it each day the room is occupied?—A. Yes; it does.

Mr. GOODKIND. You may inquire.

Mr. MEDINA. No questions.

116

THOMAS WILLIAMS, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Mr. Williams, where do you live?—A. Jacksonville, Florida.

Q. What is your occupation?—A. Bellman.

Q. Where?—A. Seminole Hotel.

Q. Were you at a bellboy at the Seminole Hotel in June of this year?—A. Yes, sir.

Q. I show you two photographs marked "Government's Exhibits 4 and 5 for identification, and ask you whether you have seen the men of whom these are photographs?—A. Yes, sir.

Q. You have?—A. Yes, sir; both of them.

Q. You saw both of them?—A. Yes, sir.

Mr. GOODKIND. May the record indicate that the witness has identified pictures previously identified as those of Edward John Kerling and Herman Otto Neubauer.

Q. Where and when did you see those men?—A. Hotel Seminole, June 17th of this year.

Q. At what time, approximately?—A. Oh, about 12:20 or thirty, something like that: after noon.

Q. And what was the occasion?—A. Well, he came in and registered and I took the bags up to the room; I roomed him.

117 Q. Do you recall what the number of the room was?—
A. 402.

Q. Did you do anything else?—A. Yes; I took him some ice.

Q. Were those two men in that room when you brought the ice?—A. Yes, sir.

Mr. GOODKIND. You may inquire.

Mr. MEDINA. No questions.

CLIFFORD WEBB, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Mr. Webb, where do you live?—A. I live in Jacksonville, Florida.

Q. Were you formerly employed by the Seminole Hotel?—A. I am.

Q. As what?—A. As bellman.

Q. Were you employed as bellboy in June of this year?—A. I was.

Q. I show you two pictures marked "Government's Exhibits 4 and 5" for identification, and ask you whether you have seen the individuals of whom those are photographs?—A. I have seen these two.

118 Mr. GOODKIND. The record may indicate that the witness has identified pictures previously identified as those of Herman Otto Neubauer and Edward John Keeling.

Q. Where and when did you see them, Mr. Webb?—A. I saw them on June 18, 1942.

Q. And where?—A. At the Seminole Hotel, Room 402.

Q. Did you go up to the room?—A. I did.

Q. What did you do?—A. I carried some ice and whiskey.

Q. And where were the two men?—A. They were in the room.

Mr. GOODKIND. At this point I should like to offer Government's Exhibit 51 for identification in evidence.

Mr. MEDINA. No objection.

(Government's Exhibit 51 for identification received in evidence.)

Mr. GOODKIND. With the Court's permission I will point out some entries on this exhibit to the jury. This is Government's Exhibit 51, a record of the Seminole Hotel which indicates that

a Mr. Kelley occupied Room 402 on June 17th and June 18th of this year.

You may inquire.

Mr. MEDINA. No questions.

119 WILLIAM GORDON LEE, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Mr. Lee, where do you live now?—A. Buffalo, New York.

Q. Did you formerly live in Jacksonville, Florida?—A. I did.

Q. Did you live there in June of this year?—A. I did.

Q. And what was your occupation at that time?—A. I was manager of the hat department at Levy's.

Q. Is that a department store in Jacksonville?—A. It is a ready-to-wear store.

Q. I show you a picture marked "Government's Exhibit 5" for identification and ask you if you have ever seen the man of whom that is a picture?—A. Yes; I have.

Q. When and where did you see him?—A. I saw him, I believe it was, June 18th, and sold him a hat.

Q. This was where, in Levy's department store?—A. In Levy's; yes, sir.

Q. And was there anyone with him?—A. There was a man about three or four inches taller than he, very dark hair. I could not positively identify him from the pictures.

Q. But you recall this man?—A. I recall that man quite definitely.

120 Mr. GOODKIND. You may inquire.

Mr. MEDINA. No questions.

FRANK CALLAN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

(Papers marked "Government's Exhibits 52 and 53" for identification.)

Q. Mr. Callan, you live in New York City?—A. No, sir; I live in Mount Vernon, sir.

Q. And what is your occupation?—A. Room clerk, Hotel Commodore.

Q. I show you two slips of paper marked Government's Exhibits 52 and 53 for identification, and ask you whether, first, you have furnished these pursuant to subpoena?—A. No.

Q. Are these records of your hotel?—A. That is right; yes, sir.

Q. And they have been furnished by the hotel pursuant to subpoena?—A. That is right.

Q. Are these records kept by the hotel in the regular course of business?—A. Yes; they are.

Q. What kind of records are they?—A. Rooming records.

Q. And by whom are such records made out?—A. This is made out by the clerk on duty.

121 A. Q. When a guest enters the hotel?—A. That is right.

Q. And they indicate the name of the guest?—A. The name of the guest is written by the guest himself, and the amount and room number is put in by the clerk and the clerk's initials put here [indicating].

MR. GOODKIND. You may inquire.

MR. MEDINA. No questions.

121 Mr. CORREA. If your Honor please, I understand it is stipulated by defense counsel that Edward John Kerling, the same whose photograph is Government's Exhibit 5 for identification, as identified by the witness Burger, and Werner Thiel, whose photograph has been identified as Government's Exhibit 6 for identification, are not and will not be available to the Government as witnesses.

CHARLES RONALD MACINNES, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct examination by Mr. BURKE:

Q. What is your occupation, Mr. MacInnes?—A. I am a special agent of the Federal Bureau of Investigation.

Q. Attached to what office?—A. The New York field office.

Q. On June 23 of this year, Mr. MacInnes, at about 8 o'clock in the evening, where were you?—A. I was in the vicinity of Lexington and 46th Street in New York City.

Q. Did you have anyone with you?—A. Yes; Special Agent John Willis.

Q. Were you following anyone at that time?—A. Yes; we were.

122 Q. Will you look at Government's Exhibit 5 for identification [handing to witness]. Is that a photograph of the man you were following?—Yes; it is.

MR. BURKE. Indicating a photograph which has previously been identified by Burger as a photograph of Edward John Kerling.

Q. Will you tell us what you observed at that time?—A. I observed Edward Kerling getting out of a taxicab on the corner of 46th Street and Lexington Avenue, and shortly thereafter, about 20 minutes after 8, he entered the Twin Oaks Inn which is on the corner of 44th Street and Lexington Avenue. About ten minutes later I saw him seated at a table with two other men in the Twin Oaks Inn. One of these men I subsequently ascertained was Anthony Cramer.

Q. That is the defendant on trial?—A. Yes.

Q. What did you do then?—A. I remained in the Twin Oaks Inn, until I notified the office about 25 minutes after 9, and I left.

the Twin Oaks Inn and at that time the three men were still sitting at the table.

Q. About how long had you remained at the Twin Oaks Inn in observing them?—A. About 55 minutes.

Q. What did you see them doing during the time you watched them?—A. When I saw them they were sitting talking, and they were taking occasional drinks; apparently not eating but just had drinks in front of them.

Q. Did there come a time when one of them left?—
123 A. Yes, about 9:45 Edward Kerling left the Twin Oaks Inn.

Q. Then what did you do?—A. I followed Kerling who went up Lexington Avenue to 49th Street.

Q. And what did he do up there?—A. He walked back and forth in front of the Brooks restaurant, occasionally looking inside as though looking for someone who had not shown up.

Q. As I understand it you had left the defendant Cramer and the other man in the Twin Oaks restaurant?—A. Yes; that is right.

Q. Finally what did you do with respect to Kerling?—A. Kerling was taken into custody about 10 o'clock on the night of June 23rd, in the vicinity of 49th Street and Lexington Avenue.

Q. Coming down, Mr. MacInnes, to June 27, 1942, were you in the vicinity of 171 East 83rd Street?—A. Yes; I was.

Q. At what time of the day?—A. 8 o'clock on until about 10:15 a. m., in the morning.

Q. Was anyone with you in the morning?—A. Special Agent Willis was with me.

Q. Will you state what you observed there?—A. I observed Anthony Cramer leave his residence at 171 East 83rd Street and walk to the Lexington Avenue 86th Street station and board

124 a train. He got off at the Grand Central stop, walked up the stairs, glancing in Thompson's cafeteria, went out to 42nd Street and then entered the Commodore Hotel.

Q. Did you see him come out of the hotel?—A. No; I did not.

Q. Coming down to the afternoon of that day, Mr. MacInnes, were you back up on 83rd Street in the afternoon?—A. Yes; I was.

Q. Anyone with you?—A. Special Agent Willis was with me.

Q. About what time was it?—A. That was about 2:30 p. m. in the afternoon.

Q. You were outside this same address, 171 East 83rd Street?—
A. Yes; that is correct.

Q. Tell us what you observed?—A. About 3:45 p. m. I observed Anthony Cramer leave 171 East 83rd Street with a woman.
(Government's Exhibit 54 marked for identification.)

Q. Will you look at Exhibit 54 for identification [handing to witness], a photograph; Mr. MacInnes. Is that the woman that you saw Mr. Cramer leave the apartment with at that time?—A. Yes; that is.

Q. Did you follow them?—A. Yes; I did.

Q. Where did they go?—A. They took the subway at 86th Street, went down to Grand Central stop and entered Thompson's cafeteria on 42nd Street near Park Avenue.

Q. At about what time did they arrive at Thompson's cafeteria?—A. A few minutes after 4.

Q. That is right near Grand Central?—A. Yes, that is right.

Q. Did they go into the cafeteria?—A. Yes, they entered the cafeteria and ordered a—obtained something to eat.

Q. How long did they remain there?—A. They remained there approximately half an hour.

Q. Eating all the time they were there?—A. They were eating and talking.

Q. There came a time when they left?—A. They left about 4:30.

Q. Did you follow them?—A. Yes, I did.

Q. Where did they go?—A. They took the subway back to 86th Street and got off and walked up to the corner of 88th and Lexington Avenue, and stood and talked on the corner for a few minutes.

Q. They what happened?—A. They separated at that point and Anthony Cramer reentered 171 East 83rd Street.

Q. Now coming down to the evening of that day, which is still June 27th, were you once more in that vicinity?—A. Yes, I was.

Q. That is at 171 East 83rd Street?—A. That is right.

126 Q. At what time?—A. I was there from 5 o'clock on until about 8:55 p. m. that night.

Q. What occurred at 8:55 p. m. that night?—A. Anthony Cramer left 171 East 83rd and walked up to 165 East 88th Street, which is the Kolping House and he went into the Kolping House.

Q. That is the name of the place, the Kolping House?—A. Yes.

Q. You followed him?—A. Yes, I did.

Q. Were there other agents with you?—A. Yes, there were.

Q. And what did you do thereafter?—A. We waited outside the Kolping House until about 10:50 p. m. that night, and then Special Agents Willis, Duncan and I entered the Kolping House.

Q. What did you do in the Kolping House?—A. We asked for Anthony Cramer. He was sitting at one of the tables in the back room, and he came up to us. We told him we would like to see him at the office, would like to have him accompany us to the New York field office, which he did.

Mr. BURKE. At this time the Government will offer Exhibit 5 for identification, the photograph identified as a photograph of Kerling.

Mr. MEDINA. No objection.

(Government's Exhibit 5 for identification marked in evidence.)

127 Cross-examination by Mr. MEDINA:

Q. What was this Kolping House, do you know?—A. Well, that is, as I understand it, a German church society. It is a gathering place for members of the society, and a few of the people lived in the house.

Q. Isn't it a sort of a place in the nature of a Y. M. C. A. maintained by some Catholic society in this city?—A. That is my understanding.

Q. And it was in that Kolping House that you actually took Mr. Cramer into custody, as I understand it?—A. We asked him in the Kolping House if he would come down to the office with us.

Q. He made no remonstrance, I take it; but simply went along with you?—A. That is correct; he did.

Q. Now, going back to the first of these days you mentioned—that was June 23rd, wasn't it?—A. Yes.

Q. My recollection of the calendar is that that was a Tuesday and that June 27th was a Saturday. Is that in accordance with your recollection?—A. Yes.

Q. When you came into this place as you described it here today you were following Kerling, were you not?—A. Yes; I was.

Q. That was the job you had been assigned to on the 23rd?—A. To follow Kerling and ascertain his contacts.

Q. When you were following him, were you following him alone or did you have some other agent with you?—A.

I had another agent with me.

Q. You did not mention him, and I wondered who he was.—A. I believe I did; with agent Willis.

Q. I think you mentioned agent Willis on the 27th but I don't think that you mentioned agent Willis was with you on the 23rd, but in any event you now state that fact to be, that he was with you?—A. Yes; that is correct.

Q. And then when you saw Kerling go into this Twin Oak Restaurant you followed him in, did you not?—A. Yes.

Q. Did Willis go in with you?—A. Agent Willis did not accompany me in. He stayed outside at that time.

Q. He stayed outside?—A. Yes.

Q. Did I understand you to say that there came a time during that evening when some message was transmitted back to the central office of the Bureau?—A. That is correct.

Q. That was not done as soon as you saw Kerling enter the Twin Oaks Restaurant, was it?—A. No; it was not.

Q. So that if we address ourselves to the time when you saw Kerling go in, Willis stayed outside, and you went inside; am I right about that?—A. That is correct.

Q. Now was there any time during that evening before you came out, that Willis came in?—A. Not while I was there, no.

Q. He stayed outside all the time that you were inside?—A. Yes.

Q. Do you know where you saw him standing last after you entered the Twin Oaks Inn that evening, and I refer to Willis?—

A. He was across the street.

Q. Across the street. Have you any notion from where he stood over across the street, he could observe what was going on inside the Twin Oaks Restaurant?—A. Well, from the position where I last saw him standing he could not have observed the activities in the entire restaurant. He could have seen certain parts of it.

Q. So that he could have seen some of the things that went on inside the Twin Oaks Inn from his position across the street, you say?—A. Yes. He could not have seen the table at which they were sitting from the particular position he was in when I entered.

Q. So that as far as you know, you were the only representative of the Government to witness what you testified to as having occurred at the Twin Oaks Inn that evening?—A. No. Later, before I left that evening, other agents came to the Twin Oaks Inn.

Q. We will go back then, and I take it you understand the purpose of my question; it is because of this two witness rule that we all know about, so there is no secret of what I am getting at.—A. Certainly.

Q. When you first went in there was a time when you were the only representative of the Government who was watching these men inside, isn't that so?—A. Yes; that is correct.

Q. And that was about up to nine-thirty, was it?—A. No, it was not; it was not that late. Other agents came shortly after nine o'clock; and two of them at least entered the restaurant while I was in there.

Q. While you were still there?—A. Yes.

Q. Now they came pursuant to some message that was transmitted back to headquarters; didn't they?—A. Yes.

Q. So that at least we have this clear: that from the time you saw Kerling go in there and went in yourself up to somewhere in the neighborhood of nine o'clock, you were the only Government agent there to watch these men.—A. I was the only one inside.

Q. That is what I meant.—A. Yes.

Q. Now, during that time that you were all alone, my recollection of your testimony is that all you observed was that they sat there at the table and they conversed, they talked together, and that they had drinks brought and that they consumed those drinks?—A. Yes.

Q. You were not close enough from where you sat to hear what they were saying, I take it?—A. No; I was not.

131 Q. After these other men came in, how long did you remain there with these other men representing the Government?—A. I remained about twenty minutes.

Q. About twenty minutes?—A. Yes.

Q. And during that twenty minutes did Kerling remain there at the table?—A. Yes; he did.

Q. And these men simply sat there and nothing further occurred except what you have told us?—A. Yes.

Q. Coming down to June 27th, am I to understand that you and Willis were together all the time?—A. We were together most of the time, if not all of the time.

Q. Let us try to divide it up: in the morning you saw Mr. Cramer come out of this place where he resided, didn't you?—A. Yes.

Q. Now, you and Willis were downstairs in the street waiting for him to come out, weren't you?—A. We were outside of his building waiting for him to come out.

Q. That is what I mean. You did not go upstairs and wait outside the door of his room or outside of the apartment, but you were downstairs, both of you?—A. That is correct.

Q. And then he came out and you and Mr. Willis followed him as he went downtown in the subway?—A. Yes.

Q. When was the time that you and Mr. Willis separated?

Was it when Mr. Cramer went in the Commodore?—A.

132 No, we were together during the morning, and in the afternoon we were together going down to Thompson's cafeteria, and while at Thompson's cafeteria. The time we parted was when Anthony Cramer and Norma Kopf left the Thompson's cafeteria and returned to 86th Street.

Q. And when they left Thompson's cafeteria Mr. Willis went off about some other business and you followed Miss Kopf and Mr. Cramer as they went back uptown in the subway?—A. Yes; that is right.

Q. So that at that period you were alone and no other Government agent was with you?—A. Yes.

Q. Now in the evening I take it from what you testified, there were several of the Government men working together there?—A. Yes.

Q. Or am I wrong about that?—A. Yes; there were.

Q. I don't know whether I put the question comprehensively enough, but I understand, and I want you to confirm it now, that during all that you did on those two days of the 23rd and 27th of June, 1942, you heard no conversation between Mr. Cramer and anyone else?—A. That is correct, I did not.

Mr. MEDINA. That is all.

Redirect examination by Mr. BURKE:

Q. As I understand you, sir, this photograph, Exhibit 54, of the woman who was with Cramer when you followed them down to Thompson's cafeteria on the afternoon of the 27th, is Norma Kopf?—A. Yes.

Mr. BURKE. That is all; Mr. MacInnes.

W. WILLIS FISHER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. BURKE:

Q. What is your occupation, Mr. Fisher?—A. I am a special agent of the Federal Bureau of Investigation.

Q. Attached to what office?—A. New York office, since January 1939.

Q. On the evening of June 23, 1942, were you in the vicinity of the Twin Oaks Restaurant?—A. Yes, I was.

Q. Where is that located?—A. 44th Street and Lexington Avenue, east side.

Q. Will you tell us what you observed there and about what time it was?—A. I arrived in the vicinity of—shortly before nine thirty p. m., and with Special Agent B. D. Rice, entered the Twin Oaks Restaurant and Bar, and inside observed three individuals sitting at a table.

Q. Will you look at Government's Exhibits 5 and 6 for identification [handing]. Are those photographs of two of the persons seated at the table?—A. Yes. This is Edward Kerling [indicating].

134 Mr. BURKE. Indicating Exhibit 5.

The WITNESS. And this is Werner Thiel [indicating].

Mr. BURKE. Indicating Exhibit 6 for identification.

Q. Who was the third person at the table?—A. Anthony Cramer.

Mr. BURKE. I will offer Government's Exhibit 6 for identification in evidence.

Mr. MEDINA. No objection.

(Government's Exhibit 6 for identification received in evidence.)

Mr. BURKE. This is a picture of Werner Thiel.

Q. Will you tell us what you observed thereafter, Mr. Fisher?—

A. I remained in the bar approximately ten minutes, after which Special Agent Rice and I left the bar and shortly thereafter, approximately one or two minutes, Kerling left the bar and walked up Lexington Avenue, east side, to a point in front of the Shelton Hotel.

Q. During the time you and Mr. Rice were observing the three men at the table, that is, Cramer and Thiel and Kerling, what did you observe them do?—A. I remained in the bar about ten minutes, and during that time they were apparently drinking some whiskey or beer or something of that sort. They were drinking. I did not see them eating at any time.

135 Q. Did you see them when they were talking together?—

A. Yes. They apparently were. Their lips were moving although I did not hear the voices.

Q. You said you left the restaurant and went up the avenue after Kerling?—A. That is correct.

Q. Go on with what you were about to say.—A. Special Agent Rice and I followed Kerling up Lexington Avenue, and he left the bar approximately quarter to ten, and for approximately ten or fifteen minutes he remained in the vicinity of the Shelton, walking down to the corner by the Brooks Restaurant, and we waited until approximately ten o'clock when he was taken in charge by Special Agent T. J. Donegan and I in the presence of Special Agents Rice and MacInnes.

Q. Will you look at Exhibit 35 previously identified by the witness as a money belt? Did you see that money belt at that time, Mr. Fisher?

Mr. Fisher: May I ask what time?

Mr. BREKE: At the time you have just told us of when you arrested Kerling.

A. Immediately after the arrest of Kerling he was brought to the New York office at Foley Square here and a preliminary search was conducted and at that time I removed this particular belt from Kerling's waist.

Q. Now, was there anything in the Belt when you removed it from Kerling's waist?—A. Yes; it contained \$3,000 in fifty bills.

Q. Subsequently that evening did you return to the Twin Oaks restaurant?—A. Yes, sir; I did.

Q. About what time?—A. I arrived there shortly before eleven p. m.

Q. What did you observe at that time?—A. At that time, just approximately eleven p. m. I observed Cramer and Thiel leave the restaurant and proceed out 44th Street to Third Avenue, and subsequently to the Thompson cafeteria on 42nd Street.

Q. Did they go into the Thompson cafeteria?—A. Yes, sir; they went in and had coffee and some other food.

Q. Did you continue watching them?—A. I did; sat very close to them.

Q. For how long?—A. I would say they were in there fifteen minutes, approximately.

Q. And then what happened?—A. They left the restaurant and walked out 42nd Street toward Madison Avenue and walked back again and finally separated in front of the entrance to the I. R. T. subway.

Q. During this time that they were walking together along 42nd Street, could you see whether they appeared to be conversing?—A. They appeared to be; yes, sir.

Mr. BURKE. You may inquire.

137. Cross examination by Mr. MEDINA:

Q. When was it that you say they appeared to be conversing together?—A. I would say all the while, sir.

Q. Well I meant the last answer that you gave; I did not recall specifically what period that referred to. I thought it referred to when you were walking along the street. A. That is right; I was closer than I am to you to them.

Q. And you were behind them, of course?—A. No; I was off to the side. Almost parallel to them at times.

Q. Almost walking along-side of them?—A. That is correct.

Q. And that was when, although you did not hear any sound uttered, you saw their lips moving?—A. I did not hear the sound in the restaurant, I said; in the bar and grill.

Q. Then, perhaps I will go back over it in more detail. First let me ask you the general question: was there any time during the entire day and evening of June 23rd that you heard anything said by Mr. Cramer or anyone with whom Mr. Cramer was conversing?—A. Not one word.

Q. So that when you say they appeared to be conversing, that was not because you heard anything that either of them said?—

A. That is correct.

138. Q. And without attempting to be at all technical about it, when you say they appeared to be conversing it was because as far as you could tell watching them it seemed as though they were talking to each other?—A. It appeared obvious to me; yes.

Q. That is all you meant by that, and that is all I mean; I am not quibbling about it at all. Now let's go back to the time that you first got on the job. I have a note here that there were all together at one time or another Special Agents MacInnes, Donegan, Rice and yourself—Fisher.—A. That is correct.

Q. Do those four constitute all of the FBI men who were at one time or another following Cramer or the other men on the evening of the 23rd of June?—A. They would not be. There were definitely others there. I would not be able to tell you who they were.

Q. I would like to get a list of them all so we can bring it down and have it disposed of once for all. How many agents were there altogether at one time or another working on this case around the Twin Oaks restaurant or any other place that Cramer was on the evening of the 23rd of June?—A. That would be impossible to say that. I can say the ones I saw. There were others there that I did not see apparently.

Q. I really think you are attributing to me a little more 139 technical view than I am taking. I only had in mind of course the people that you knew were there.—A. All right. Special Agent in charge T. J. Donegan, Special Agent P. D. Rice, C. R. MacInnes, Willis—John Willis; Special Agent Foster I believe was in the vicinity at one time. That is about all I recall.

Q. So that including yourself we have six who were there or around there at one time or another, to your knowledge, that evening?—A. Well, I know that those six had certain assignments. There may have been others; I don't recall.

Q. I want to know were those all of the men that you saw on this assignment on the evening of June 23rd. And please be assured I am not trying any quibbling about this. I am merely trying to find out who they were.—A. I am doing the best I can to recall, sir. I say there may have been others but I cannot recall at the moment.

Q. You say the six were Agents Fisher, Foster, Donegan, Rice, MacInnes and Willis?—A. Yes; and I know there were others there on certain assignments, but I do not recall who they were. I am being frank about it.

Q. Well can you say this—that there was a certain time when you started working on this matter in connection with Cramer or anyone Cramer was with that evening—there was a certain time we can begin with that you appeared on the scene?—A. Yes, 140 sir. I would say shortly before 9:30.

Q. So when we say shortly before 9:30—A. It may have been 9:20 or 9:25. It might have been.

Q. I do not care whether it was even 9:15. But 9:15, 9:20, 9:30 or thereabouts—before then we can be sure you did not know what went on up around the Twin Oaks Inn?—A. Exactly.

Q. Because that is when you first turned up there?—A. That is correct.

Q. So that whether there was one or more of these other men there before that you naturally do not know?—A. Yes sir.

Q. At that time, whether it is 9:15, 9:20, 9:25, or 9:30, when you came in you went into the bar and you were there about 10 minutes?—A. I believe so.

Q. Who else representing the Government was in there while you were there for those 10 minutes?—A. Special Agent P. C. Rice.

Q. So Rice and you were there together then?—A. That is correct.

Q. As Mr. MacInnes, who has just left the stand, was there for a time, you must have come in just shortly after he went out?—A. It is possible.

Q. As far as your recollection goes that is when you did arrive?—A. I don't recall seeing him in the bar.

141 Q. You did not see him inside the Twin Oaks Inn at all that evening, did you?—A. No; I did not.

Q. So that you were in there with Rice. Now you then together with Rice and others went after Kerling and took him into custody that evening, didn't you?—A. That is correct.

Q. So that after you left the Twin Oaks Inn after being there about 10 minutes what you were after was Mr. Kerling?—A. No. Well, that was our assignment; yes.

Q. That is what I meant. So that when you left there you were not interested any more with Cramer or whoever was left in the Twin Oaks, but you went with Rice or whoever else was representing the Government there, after Kerling?—A. I was interested of course, but I had one assignment and that was to follow Kerling.

Q. Anyway after that 10 minutes you did not see Cramer any more that evening, am I right about that?—A. Oh, yes; I did. Yes, sir; I saw him later that evening.

Q. You saw him of course when you came back, as you testified on direct examination, but I am trying to get this time that you were there isolated so the jury can get a perfectly clear notion of what you saw when you were in there. Do you understand that?—A. Yes, sir.

Q. When you were in there that ten minutes Mr. Willis 142 was there and you were there—or was it someone else representing the Government was there with you?—A. He may have been in there and I did not see him. He may easily have been in the restaurant. I don't recall seeing him.

Q. You do not recall seeing Mr. Willis?—A. No, sir; but the bar was fairly big, there was a restaurant part; it was impossible to see everyone.

Q. Was Mr. Rice in there with you? I think you said Mr. Rice.—A. Yes; he was there with me.

Q. While you were there together you were the only Government men there in the restaurant?—A. I cannot say that. The only ones that I knew about.

Q. You know these fellows in the FBI pretty well, don't you?—A. I mean they may have been there and I did not see them. My attention was directed toward the subjects, toward Kerling, Cramer and Thiel, and I did not see everyone came in and out of that restaurant. I was interested in those three.

Q. I see. And while you saw them there there was merely the sitting together and apparently conversing and drinking, and that is all you observed?—A. Yes, sir.

Q. When you came back after Kerling was taken into custody you got back to the Twin Oaks shortly before 11, as I remember it?—A. Yes, sir.

Q. Did you have any other agent with you?—A. I came back with special agent in charge T. J. Donegan.

Q. You and Donegan came back together to the Twin Oaks Inn shortly before 11?—A. That is right.

Q. Did Donegan stay with you until you stopped following Cramer that evening?—A. Well, not exactly in my presence, but he was in the vicinity.

Q. That is, you and he were following Cramer together but not actually alongside of each other?—A. That is right; he was present and got most of the surveillance I am sure.

Q. That is what I mean. That was the intent, and as far as you know that is just what you and Donegan were doing together that evening?—A. He had issued instructions that certain agents were to take Thiel and certain agents would take Cramer.

Q. And you and Donegan were the two who were assigned to take Cramer in the latter part of the evening?—A. Yes, along with Special Agents Foster and Rice.

Q. Were there four of you that were following Cramer when he left the Twin Oaks Inn shortly before 11 o'clock?—A. Oh, yes. Special Agent Rice remained at the scene while I went to the office, and when I got back he was still there, and Special Agent Foster came with me, as did Special Agent T. J. Donegan.

Q. I will confess you got me a little bit mixed up here now, but I will try to straighten it out. I think we have got the first part of the evening straightened out—that you were there for 10 minutes in at the bar, and during that 10 minutes Rice was also in there with you.—A. Yes, sir.

Q. No doubt about that?—A. No doubt.

Q. As to the latter part of the evening as I understand your

last answer it is that when you went after Kerling, Rice remained at the Twin Oaks watching whoever was there?—A. No, I don't mean that; sir. I mean that he was with me at the time Kerling was taken into custody, but after that he did not accompany me to the office, and he returned back to the Twin Oaks after we removed Kerling to the office.

Q. So that when you say Rice was at the Twin Oaks you did not mean that you saw him there, but you knew he had been instructed to go back and you assumed he did go back?—A. Well, I knew that he did because I saw him there on my return.

Q. That is all right, I say he was there but you did not see him there all the time, because you were not there all the time yourself.—A. That is right.

Q. As to Donegan, Foster and yourself you, following instructions, coming back shortly before 11 o'clock, picked Cramer 145 up and stayed with him the rest of the evening?—A. That is correct.

Q. Did you notice anything other than what you have described to the jury with reference to Mr. Cramer during that evening?—A. What do you mean?

Q. I really mean you have told the whole story as far as you remember it, as respects Mr. Cramer?—A. I believe so.

Q. As far as you can recall there is not anything that you have not told the jury already, that you observed Mr. Cramer doing that evening?—A. No; that is correct.

Q. And as to any conversation, it is perfectly clear that you heard no conversation in which Mr. Cramer participated?—A. Yes. I could not get close enough to hear it; that is right.

Q. Whether you got close enough or not the fact is you did not hear any conversation?—A. I think that answers it. I did not get close enough; I did not hear it.

B. D. Rice, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct examination by Mr. BURKE:

Q. Your occupation, Mr. Rice?—A. I am a special agent of the Federal Bureau of Investigation.

146 Q. Assigned to what office?—A. I am assigned to the New York office.

Q. On the evening of June 23rd of this year were you in the vicinity of the Twin Oaks Restaurant, Lexington Avenue and 44th Street?—A. Yes; I was.

Q. At about what time?—A. At about 9:30 in the evening.

Q. Was there anyone with you?—A. Yes; there were other agents with me.

Q. Was the gentleman who has just testified with you?—A. Yes; he was.

Q. Did you go in the restaurant?—A. I did.

Q. Will you look at Exhibits 5 and 6, photographs [handing to witness]. Did you observe those men in the restaurant?—

A. Yes; I did.

Q. Was there anyone with them?—A. Yes; another man was with them.

Q. Can you identify the man who was with them?—A. Yes; he was Anthony Cramer.

MR. BURKE. Exhibits 5 and 6, those are pictures of Thiel and Kerling.

Q. Did you remain in the restaurant observing them?—A. I remained in the restaurant for perhaps 10 or 12 minutes observing them.

Q. With Mr. Fisher?—A. With agent Fisher.

Q. After that did you leave the restaurant?—A. Yes; I did.

147 Q. Where did you go?—A. Together with Fisher and other agents we followed Kerling north on Lexington Avenue to a point near the Shelton Hotel, where he was taken into custody.

Q. During the time that you were in the restaurant watching Kerling and Thiel and Cramer what did you observe them doing?—

A. They were sitting at a table and talking very earnestly.

MR. MEDINA. I move to strike out the expression "very earnestly" as a characterization.

THE COURT. Don't you think most of us can tell when people are talking earnestly or not?

MR. MEDINA. I claim it is a characterization, your Honor, and not admissible.

THE COURT. I think the witness may characterize the conversation, as to whether it was earnest, desultory or anything of that sort.

MR. MEDINA. I respectfully except.

THE COURT. I think I can tell when you are quite earnest.

MR. MEDINA. I am earnest all the time, your Honor.

By MR. BURKE:

Q. At a later time on this same evening June 23, did you return to the Twin Oaks restaurant, sir?—A. Yes; I did.

148 Q. Did you once more enter the restaurant?—A. I did.

Q. Anyone with you?—A. At that time I was alone.

Q. Did you join anyone in the restaurant?—A. There were agents outside. I didn't join any other agent in there. There were other people inside, of course.

Q. What time was it when you went into the restaurant the second time?—A. The second time it was probably 10:45 p. m.

Q. Did you see the same three men, that is Cramer, Thiel, and Kerling, that you had seen the first time?—A. No, sir. Kerling we had taken into custody, and when I returned to the restaurant Cramer and Thiel were still there talking.

Q. At a table?—A. Yes, sir; at a table.

Q. How long did you remain there?—A. At that time I stayed perhaps three or four minutes.

Q. Then what did you do?—A. Then I took a position outside of the restaurant where I could observe the entrance.

Q. Did Thiel and Cramer come out eventually?—A. They did.

Q. About what time?—A. At about 11 o'clock.

Q. Did you follow them?—A. Yes; I did.

Q. Where did they go?—A. They went down Lexington Avenue to 43rd, thence over to 3rd Avenue and down to 42nd, then they walked west to 42nd and Madison Avenue, and walked back to Thompson's restaurant there in the Grand Central building on 42nd. They entered the restaurant and approached the counter there, bought some food and sat at a table.

Q. About how long did they remain in Thompson's restaurant?—A. They sat there probably 12 to 15 minutes.

Q. During this period that you were following them in the street and also watching them in Thompson's restaurant were you near enough to observe whether they were conversing together?—A. Yes; I was. Occasionally they would stop as they walked along and stand and talk, and then move on for a few more feet and talk again.

Q. How long did they remain in Thompson's?—A. I said they stayed there probably 12 to 15 minutes.

Q. And then they left?—A. And then they left; yes, sir.

Q. Did you follow them?—A. Yes; I did.

Q. To where?—A. They walked back to the corner of Vanderbilt Avenue and thence east to a position in front of the Grand Central entrance there, where they shook hands and separated, Cramer going into the station, Thiel continuing down in the direction of the Commodore Hotel.

Q. Did you follow either of them?—A. I followed Thiel.

MR. BURKE. You may inquire.

150

Cross-examination by MR. MEDINA:

Q. One thing I would like to have clear, I am not trying to get you mixed up, nor have I tried that with anybody else, so please don't start with any such impression.—A. All right.

Q. Of your men was there someone in charge on the evening of the 23rd of June?—A. Yes; there was.

Q. Who was he?—A. Special Agent in charge T. J. Donegan.

Q. And working under Donegan were how many men that evening?—A. I cannot answer that question, sir.

Q. You do not know exactly how many?—A. No, sir.

Q. I take it that all those who have already testified here were working under the supervision of Mr. Donegan that evening, so far as you know?—A. Well, I have been present during the testimony of several agents, and those I am quite certain were working under his supervision. I do not know all the witnesses.

151 Q. Well, it has only been this afternoon that the agents of the Department have testified, and I think you have been here all afternoon, haven't you?—A. Yes, sir.

Q. Do you know whether there came a time in the early part of June 23d when Mr. Donegan made certain assignments to you agents as to what your duties were to be in this particular matter for that day?—A. I can answer for myself, sir. For the others, I cannot.

Q. I take it that your answer as to yourself is in the affirmative, that there was a time when you did get instructions that day from Mr. Donegan?—A. Yes, sir.

Q. What were you supposed to do?—A. Well, could you be more specific as to time.

Q. I mean what did Mr. Donegan tell you to do whenever he gave you the instructions, the first time he gave them on June 23d?—A. (No answer.)

Q. Maybe I can go at it a different way, and I am honestly only trying to get these facts out, so please don't misunderstand.—

A. If you could direct your question to the specific time of day I could probably answer it.

Q. I am going to try it from a different angle and maybe we will get it straightened out: is it a fact that until the man or men who were following Kering that evening followed him into the

152 Twin Oaks Inn and saw Thiel and Cramer there, that none of the men in your department knew that Thiel or Cramer had any relation whatever to this matter?—A. I can only answer for myself, sir, and not for all the men in my organization, and so I am consequently unable to answer that question.

Q. You cannot throw any light on that? So far as these jurors are concerned, if they want to know when did the department first know they were in there, you just cannot help them.

MR. CORREAL: I object to the form of the question as distinctly improper.

THE COURT. Do you understand it?

THE WITNESS. Well, I would like to have it read again.

THE COURT. If you do not understand the questions have them repeated.

Q. (Question read.)—A. Well, except upon hearsay.

Q. I am willing to take the hearsay.

The Court. Tell the jury. Talk to the jury.—A. So far as I understand, Thiel and Cramer had entered the restaurant some time before my arrival. I do not know when, exactly when.

Q. Maybe you did not understand my question and I will put it a different way: I kind of got the impression here as I was listening to these other agents that the first time the department or the Bureau of Investigation knew that Thiel and Cramer were in the Twin Oaks Restaurant was when the men following Kerling saw them in there. Now is that so or isn't it so?—A. That is my impression.

Q. So that we can take that as a starting point, can't we. That is when they first saw and first knew that Cramer and Thiel were in there.—A. Now, I do not like to be argumentative, sir, but as far as I am concerned you can take it for a starting point.

Q. All right. I am willing to do that, but you are not positive, but that is your opinion?—A. That is right.

Q. And I don't want to hold you to that or I don't want to hold the Government to it, but I want to get our bearings and have the jury be able to follow. Now we get back to the time that you participated, and as I get it, there were two occasions on the evening of June 23rd when you were in the Twin Oaks Inn and you saw Cramer in there with other people, is that right?—A. That is correct; yes, sir.

Q. And the first time you were in there how long? I did not get that on your direct examination.—A. The first time I was in there was a period of probably ten or twelve minutes.

Q. And while you were in there on that occasion can you fix the time? You see it may be important here.—A. I understand your point, sir. The best I can say is that it was probably from ten or twelve minutes following nine-thirty.

Q. Yes. That makes it about 9:45 or thereabouts; maybe a little before 9:45.—A. Well, I recall that I was outside for probably five or six minutes before Kerling left the restaurant, at which time I was unable to observe what occurred in the restaurant. That is, the men might have moved about without my knowledge, in there at that time.

Q. Yes; that is perfectly clear. So that somewhere in the neighborhood of 9:45 is when you went in on the evening of the 23rd?—A. No, sir; somewhere in the neighborhood of 9:30 I went in and at 9:45 Kerling came out.

Q. So that the time you were in there was approximately from 9:30 to a little before 9:45?—A. Until probably—five or six minutes before 9:45.

Q. Well, that would put you in there just about ten minutes, wouldn't it?—A. That is right.

Q. And when you were in there that ten minutes Kerling was still there and Thiel was there and Cramer was there?—A. That is right.

Q. Now the next time is when you came back and that was after Kerling had been taken into custody, wasn't it?—A. Yes, sir.

Q. And you fixed the time in your direct examination
155 at about 10:45, and you say that you were then in the Twin Oaks about three or four minutes?—A. That is right.

Q. And then you saw Thiel and also you saw Cramer at the table?—A. Yes, sir.

Q. Now is it perfectly clear that at no time that evening did you hear anything that was said either by or to Cramer?—A. No, sir; I did not hear anything.

Q. Whether you were close enough or whether you were not, the fact is you heard no conversation between Cramer or anybody else that evening?—A. That is right.

Mr. MEDINA. That is all.

Mr. BURKE. That is all.

CHARLES H. STANLEY, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. BURKE:

Q. What is your occupation, Mr. Stanley?—A. I am a special agent for the Federal Bureau of Investigation.

Q. Attached to what office?—A. The New York office.

Q. Now on the night of June 23rd of this year were you with these other agents who have testified who made various observations of the Twin Oaks Restaurant and Thompson Restaurant?—

A. I was in the same vicinity with them; yes, sir.

Q. And coming down to Thompson's restaurant, did you
156 make any observations in Thompson's restaurant that night?—A. I observed Cramer and Thiel enter Thompson's restaurant where they apparently purchased something and sat down at a table where they remained for approximately ten or fifteen minutes. They appeared to be talking, and after that they left and walked to 42nd Street, and thereafter they walked from Thompson's restaurant to the corner of 42nd Street and Vanderbilt, where they stopped and talked for a moment or two, and then they walked up and down 42nd Street from Thompson's to Vanderbilt Avenue for two or three times. They appeared to be talking, and thereafter they stopped at approximately the entrance to the Grand Central Station there where they shook hands and departed. Thiel continued down 42nd Street and Cramer entered

the Grand Central Station entrance and walked for a short distance in the station, and thereafter he immediately turned around and walked back facing me. I was behind him. And then he came back out on 42nd Street, walked down 42nd Street, and entered the Lexington Avenue subway, caught the uptown Lexington Avenue subway to 86th Street.

Q. You followed him?—A. Yes, sir; I did.

Q. Where did he go at 86th Street?—A. He left the subway and walked on Lexington Avenue to 83rd Street, and then down 83rd Street to 171 East 83rd Street, where he entered.

157 Mr. BURKE. You may inquire.

Cross-examination by Mr. MEDINA:

Q. Just when did you start following Mr. Cramer on that evening of the 23rd?—A. I began following Mr. Cramer as he left the Twin Oaks restaurant at 44th Street.

Q. That is where you checked in, as it were, and then kept on until he got home that evening, or until he got into the subway?—A. Until he got home.

Q. And you followed until he got home?—A. Yes, sir; I observed him enter the door.

Q. And that was the assignment Mr. Donegan gave you to do that evening?—A. Well, I had been there before Thiel and Cramer left, just before they left I was assigned by Mr. Donegan to follow Cramer wherever he went and observe his contacts and actions.

Q. And that is exactly what you have described to the jury here?—A. That is right.

Q. On the evening of the 23rd of June?—A. That is right, sir.

Q. Now did you know that Mr. Fisher was also following him that evening?—A. I observed Mr. Fisher; yes.

Q. But you were not working together?—A. No, sir; we were in the same vicinity, but I was not working right with him.

158 Q. That is all. Oh, I might ask one other question: you did not hear any conversation between Mr. Cramer or Mr. Thiel or anyone else that evening, did you?—A. I did not actually hear any conversation.

Mr. MEDINA. That is all.

Mr. BURKE. That is all.

HARVEY G. FOSTER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. BURKE:

Q. What is your occupation, Mr. Foster?—A. I am a special agent of the Federal Bureau of Investigation.

Q. Attached to what office?—A. The New York office.

Q. On the night of June 23rd of this year, Mr. Foster, were you

present when Thiel and Cramer left Thompson's cafeteria?—

A. Yes, sir.

Q. And did you thereafter follow Thiel?—A. Yes.

Q. And Exhibit 6, a photograph, is that a representation of the man you followed [handing]?—A. That is Werner Thiel, the man I followed; yes, sir.

Q. Will you tell us what you observed and did?—A. Well, about eleven o'clock on the night of June 23, 1942, I was in front of the Twin Oaks Inn at 11th Street and Lexington Avenue, and I observed Werner Thiel leave that restaurant in the company of Mr. Cramer.

159 Q. What time was this?—A. About eleven o'clock.

Q. Did you observe them go to Thompson's cafeteria?—

A. Yes, sir.

Q. Coming down to after they left Thompson's cafeteria, then tell us what you did?—A. They left Thompson's cafeteria and walked up to Vanderbilt Avenue and Lexington Avenue, and then walked up and down on Lexington Avenue between Madison—I am sorry, that is 42nd street. They walked up and down on 42nd Street between Lexington and Madison Avenues for a period of a few moments—~~for~~ minutes. I should say—and then after walking back and forth they parted at the entrance to the Grand Central and at that time I followed Werner Thiel down 42nd Street almost to the entrance of the Commodore Hotel, where he was taken into custody by Special Agents in Charge C. J. Donegan and S. J. Drayton and myself.

Q. About what time was that that Thiel was arrested?—A. That was approximately 11:45 or 11:50 p. m.

Q. That was the night of June 23rd?—A. June 23, 1942.

Q. Were you present when Thiel was searched thereafter?—

A. Yes, sir.

Q. Can you tell us whether he had any money belt on him?—

A. He did not have any money belt on him.

Mr. BURKE. You may inquire.

Mr. MEDIN. No questions.

160 R. C. CAMDEN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. BURKE:

Q. What is your occupation, sir?—A. I am a special agent of the Federal Bureau of Investigation.

Q. In the month of June, Mr. Camden, did you go to 171 East 3rd Street and to an apartment in that house?—A. I did.

Q. On what day?—A. That was on Sunday, June 28, 1942.

Q. Was there anyone with you?—A. Yes; Special Agent Walter Crow.

Q. Which apartment house did you search?—A. Apartment C, fifth floor.

Q. Whose apartment was that?—A. That was where Anthony Cramer had a room.

Q. I show you Exhibit 34 for identification, which has been identified by the witness Berger as a money belt. Did you see that at that time, that is, June 28, in that room?—A. Yes; during the search of that room we found this money belt in a metal box. This box was under a radio table beside the bed; and the box also contained various shoe-shining equipment.

(Papers marked "Government's Exhibits 55 and 56" for identification.)

161 Q. I show you Government's Exhibit 55 for identification, a piece of paper. Did you find that in that room?—A. Yes. This piece of paper, which is a sheet from the New York Times, was folded up and underneath the radio on the radio table beside the bed.

Q. I show you Government's Exhibit 56 for identification, a piece of paper. Did you find that in Mr. Cramer's room?—A. This piece of paper when I found it was torn into several pieces and was in a wastebasket in that room.

(Papers marked Government's Exhibits 57 to 62 inclusive for identification.)

Q. I show you Government's Exhibits 57 to 62 inclusive for identification, six postcards, and each one of them has clipped to it a large piece of paper which I will ask you to ignore, and just direct your attention to the postcards themselves. Did you find them in that room?—A. I found number 57.

Q. Where?—A. That was in a dresser on the room; 58 was also in a dresser, dresser drawer; likewise 59, 60, 61 and 62.

(Papers marked Government's Exhibit 63 for identification.)

Q. I show you Exhibit 63 for identification, consisting of two typewritten sheets. Did you find those in that room?—A. Yes.

162 Q. Whereabouts?—A. That was also in the dresser.

(Postcard marked "Government's Exhibit 64" for identification.)

Q. I show you Government's Exhibit 64 for identification, which is a postcard and again I have annexed to it with a clip a large sheet of paper which I will ask you to ignore. Did you find the postcard there?—A. Yes; this postcard was also in the dresser.

Q. Mr. Carden, did you find any money in the room?—A. Yes; in a book which was located in a book shelf in the room there was two \$50 bills and three \$20 bills.

Q. Do you recall the name of the book?—A. It was a book

pertaining to music. "Knowledge of Music" I believe was part of the title.

Q. And the book was on the shelf with other books?—A. Yes; it was on a metal shelf in a book rack containing about three shelves with other books.

Q. And those bills were in the book?—A. Yes.

Mr. BURKE. You may inquire.

Cross-examination by Mr. MEDINA:

Q. As a matter of fact you know, do you not, that Mr. Cramer had told some of the men in your department before you went up there that the money was in that book?—A. That is my knowledge; yes, sir.

Q. And he had also told the men in the department
163 that this belt was in the shoebox?—A. That is what I understood.

Q. Now speaking generally, you knew also that he had consented and signed some paper authorizing the men to go up to his apartment and to examine everything that was there?—A. Yes; it was on that authority that we conducted the search.

Q. Authority from him that he freely gave them to go ahead and do it. There is no doubt about that, is there?—A. No, sir.

Q. Now when you went up there what sort of a looking place was this at 171 East 83rd Street?—A. The particular apartment or room or what?

Q. Well, was it a humble sort of dwelling place or an expensive looking apartment house, or what sort of looking place was it?—

A. Well, I would say it was a medium type of apartment, a type containing several rooms and apparently—of course I don't know—but apparently different rooms were rented out to individuals.

Q. It was a place where they took in roomers and rented the rooms to them, wasn't it?—A. It seemed to be.

Q. Seemed to be, and I believe that is what it was, and one of those rooms was rented by Mr. Cramer, wasn't it?—A. That is my understanding; yes, sir.

Q. Up there in that apartment 5-C. When you went
164 in that room what sort of a looking place was it?—A.

In what respect, Mr. Medina, more specifically?

Q. Well, did it seem to be furnished in some luxurious way or did it look like a pretty simple, humble kind of a room with plain furniture and that sort of thing?—A. It was an ordinary type of room consisting of various pieces of furniture, a bed, a chair, a desk, dresser, table, and radio—it was not elaborate in any way.

Q. It was not elaborate in any way, and just the sort of a thing that a man working over in the boiler room in this licorice factory would be likely to have?—A. I don't know about that.

Q. Well, perhaps that is a characterization of mine, but as far as you knew when you went up there, you were not surprised to find the place just as you found it, were you?—A. Well, I had no particular idea what it would be like until I saw it.

Q. In any event, you described it pretty well in what you have already said to the jury about it.—A. I think so.

Q. Now as you went around there you naturally were looking for everything you could find? That was your purpose, wasn't it?—A. Well, everything of interest to the case.

163 Q. Isn't it a fact that you made a mighty thorough search of that place, over the whole room, before you left, or isn't it?—A. Yes, sir.

Q. And you took away with you absolutely everything that you thought might have the most remote or direct bearing upon Mr. Cramer's situation?—A. I took away those things that seemed most important.

Q. That seemed most important. Now there were a lot of other things in there besides the ones that have been identified, were there not?—A. Oh, yes; quite a few.

Mr. MEDINA. I wonder if perhaps somebody in the department has not got a little diagram. Mr. Willis, have you got some diagram there that I could use with this witness; a diagram of the room?

Mr. WILLIS. I will have one in a few minutes.

Mr. CORREA. I don't know, Judge, how that is particularly relevant or material. I have not interrupted counsel because we have proceeded pretty rapidly up to this point, but perhaps if counsel will indicate what his point is—

Mr. MEDINA. Yes, I will indicate. It was charged in the Government's opening that certain things were concealed. I take a contrary view, and I believe I am entitled to bring out from this witness exactly where he found each of the things he did
166 find, so that the jury can decide whether there was concealment or whether there was not.

Mr. CORREA. Let us be clear about that, counsel. It was charged in the Government's opening that the money belt was concealed, although it was not charged in the opening, though it now appears, that certain money was concealed as well, but those are the only things, so far as I know, and I do not see why any diagram or anything else is necessary to bring out all the facts concerning them. If it is, and we have one, we will gladly produce it, but I do not care to do anything which is going to add to the prolongation of irrelevant testimony.

Mr. MEDINA. I can assure your Honor I do not want to bring in any irrelevant testimony.

The COURT. What is the point? There is no diagram in existence apparently.

Mr. CORREA. I am just informed there is. I thought Mr. Willis was going to make one. He says he has a rough sketch.

Mr. MEDINA. I saw the diagram when I went over all this with Mr. Willis, and I know what I want to bring out, but the point is there was no concealment. These things were open around the place.

Mr. CORREA. Our point is there was concealment as to money belt and the money concealed in a book. We do not claim concealment as to the other things especially.

167. The COURT. What is it you are asking the Court for?

Mr. MEDINA. I want to bring out from this witness facts which I think bear very materially upon the intent. That is the issue in this case, and what he did with those things around his room is what I want to bring out. If they have not the diagram—

The COURT. Go ahead. I certainly am not stopping you.

Mr. MEDINA. I understood Mr. Correa was raising some question about it, but as he does not, I will go ahead without the diagram.

Mr. CORREA. We will get the diagram, Judge. It is upstairs.

By Mr. MEDINA:

Q. I think perhaps it won't be hard for you to make a little diagram of your own right there, showing what these simply articles of furniture were that were in that room.

The COURT. Mr. Correa has asked the F. B. I. representative to see if they can locate one.

Mr. CORREA. I just asked one of the men to go up and get it, Judge.

Q. How many articles of furniture were in that room?—A. Well I shall name them as I recall them: a bed—

168. By the COURT:

Q. Was it a square room or was there anything peculiar about that room?—A. It was approximately square and had one window in it.

Q. How large a room was it?—A. About 10 x 12.

Q. Where approximately was the window?—A. The window was located in one corner, occupying the corner and keeping the corner from being a ninety degree angle. It was in a corner opening out into a court.

By Mr. MEDINA:

Q. I am not interested myself in that window or door, but I want to know where these pieces of furniture were and how many

there were?—A. Beside the bed, immediately next to the door, there was a small radio table on which was set a radio. Underneath the radio table there was a tin box containing various pieces of shoe shining equipment, and underneath the equipment in the box was the money belt.

Q. You are getting a little ahead of me here. There was a bed and there was a radio table and under that radio table there was a box. Now what other articles of furniture were in there besides these you have already mentioned?—A. Besides the dresser there was a small wastebasket, and on the other side of the dresser near the window there was a bookcase beside which was a chair, and next to the chair there was a built-in cupboard containing clothes and other items, and next to that, between that and the bed here was a table and a small chair, and there were a couple of lamps in there and that is about all the furniture in the room.

Q. You think that table and the small chair could be the one Mr. Willis described to me as a desk?—A. No, sir. There was a larger table which I refer to as a desk, and the radio table was a small table on which the radio was placed.

Q. Now do you suppose that you could just mark on here—suppose there is the door [indicating], with reference to that door could you mark where these pieces of furniture were [handing]?—

A. [Witness complies.] That is about it.

170 Q. On this diagram you have marked here, starting at the door and taking these articles in the order in which we go around, a radio table. Now was that radio table something like this table here [indicating]?—A. Similar to it. Probably smaller.

Q. And a little closer to the ground?—A. Just about the same height.

Q. Did it have a drawer to it?—A. No, sir.

Q. Was there any part of it that could be used as a receptacle?—A. No, sir.

Q. And underneath was this tin box that you have described?

A. Sitting on the floor underneath.

Q. That is what I meant.—A. Yes.

Q. It was right on the floor underneath, and I suppose some little space between the under part of the table and the top part of this tin box?—A. As I recall, yes.

Q. Taking the tin box, first when you use the expression "tin box" I kind of think it was a box that you keep valuables or money in.—A. It was a box about the size of a shoe box, had a lid on it just like a shoe box.

Q. It did not look like a box you kept valuables in at all?—A. No, sir; just an ordinary shoe box.

Q. An ordinary shoe box to keep shoe materials in. What did you find in there besides this belt?—A. Well, 171 there were cans of shoe paste and rags apparently used for shining shoes, and I believe, I don't recall exactly, there seemed to be a brush in there; a shoe brush.

Q. Is this belt just the same as it was when you found it in there?—A. It was folded up.

Q. It does not look any different from an article of shoe shining apparatus, does it?—A. I never saw one with a buckle on it.

Q. No; but I suppose excepting for the buckle there the rest of it is about the size and shape of what is used for shining shoes, isn't it?—A. Approximately so.

Q. When you looked in that box did you have any difficulty in finding this belt in there?—A. No; just had to pick out the rags and shining equipment.

Q. And this was right in there with the rags?—A. Yes; down in the bottom.

Mr. MEDINA. I offer this in evidence.

Mr. CORREA. It is in evidence.

Mr. MEDINA. It is in evidence? I thought not. It says "for identification."

Mr. CORREA. Then we offer it, Judge, to be marked as a Government's exhibit.

Mr. MEDINA. Am I to be deprived of the privilege of offering an exhibit, your Honor?

The COURT. I think you offered it first.

172 Mr. MEDINA. I did.

Mr. CORREA. Then I now join in the offer. Could it be marked with a Government number?

Mr. MEDINA. I do not see why it should be. The defendant offers it.

Mr. CORREA. If counsel wishes to be technical about it, Judge, I withdraw that point. I merely indicate that we want to keep it in the custody of the Government.

The COURT. I think it would be better to have the continuity of exhibits.

Mr. CORREA. If counsel wants to be technical about it we will withdraw the request.

Mr. MEDINA. I do not want to be technical, but I think it should be my exhibit.

The COURT. I think it should, and have so ruled.

Mr. MEDINA. I do not wish the custody of it, of course.

The COURT. It would be simpler to have it keep its original number.

Mr. MEDINA. I do not mean that, as long as it is understood it is our exhibit.

The COURT. It will be Defendant's Exhibit A. That is the defendant's first exhibit; is that right?

173 Mr. MEDINA. Yes, your Honor.

(Marked "Defendant's Exhibit A.")

Mr. MEDINA (to jury): Ladies and gentlemen, I wish you would examine that and pass it around.

Perhaps I might proceed even while the jury are examining that. I do not think it would bother them if I went right on.

The COURT. Just as you wish.

By Mr. MEDINA:

Q. Did you find anything else in that box besides the shoe shining equipment and this belt?—A. No, sir.

Q. Now coming to the table which you described as a radio table, did it have a radio on top of it?—A. Yes.

Q. Was there anything, any covering over the table that was under the radio, and between the radio and the table?—A. The sheet of newspaper which has already been introduced in evidence was under the radio.

Q. You mean the one that has been marked for identification?

A. Yes.

Q. That was under the radio?—A. Yes.

Q. Was there anything else between the radio and the table than that paper?—A. I believe there were some other papers, perhaps sheets of notebook paper with some sort of script.

174 Q. So that the radio was resting on some papers, including that sheet of newspaper, that were on top of this table?

A. I do not recall they were under the radio.

Q. What I want to get clear is whether the radio was resting right on top of these papers so that anyone coming in and picking up the papers would see the radio there?—A. Yes.

Q. In other words there was not any cloth over those papers, or any other thing which might conceal them?—A. I do not recall any such cloth.

Q. Your best recollection is that right immediately under the radio were these papers?—A. As I recall now; yes.

Q. Does that cover everything that had to do with the table and the radio and the box under the table?—A. I think so.

Q. Did you try taking the radio apart to see if something was concealed there?—A. I looked inside; yes.

Q. You did not find anything concealed in there, did you?

A. No.

Q. Did you carefully go over the panelling of the room and the bed to see if anything was concealed in the panelling of the room or in the mattress of the bed?—A. Yes.

Q. Did you find anything?—A. No, sir.

175 Q. Did you look in every place that you thought conceivably could be used for purposes of concealment?—

A. Yes, sir.

Q. Did you find anything?—A. Nothing other than has been mentioned.

Q. You use that qualifying phrase because the money was in that book, do you not?—A. No, sir; I was just trying to answer your question.

Q. Let me put it in a different way so we will be sure not to have any ambiguity. You did look every place that you could think of in that room that might be used for purposes of concealment, didn't you?—A. That is right.

Q. The panelling, the mattress of the bed, took the radio apart and all that. I say when you did that you did not find anything?—

A. Other than has been mentioned; no, sir.

Q. Well the things that you found lying right out in the open as it were you already have described in part, haven't you?—A. Yes.

Q. And as to what was in the tin box, you described that fully; too, haven't you?—A. To the best of my ability.

Q. So that we can leave the tin box and the table and the radio, and if you think of anything later you can come right back to it and tell me there is something you remember, and I will come right back and give you a chance to tell about it so you don't have to worry about that. Now the next item here, following along as we go to the door and turn to the right, you come to the bed, and you state to these gentlemen of the jury there was nothing found in the bed?—A. No.

Q. And you took it all apart and took the bedclothes off and opened up the pillow and opened up the mattress and all that. I take it?—A. We searched the bed; yes.

The COURT. What is your answer? Did you take the pillow apart and the mattress apart?

The WITNESS. No, sir; we didn't go so far as to take the pillows and mattresses apart, although we felt them and bent them and satisfied ourselves there was nothing concealed in there, nor that there had been any recent openings in which anything could have been inserted.

Q. So that while you may not have actually ripped them open you satisfied yourself there was not anything concealed in either the pillow or the mattresses?—A. That is right.

Q. The next items here are this little desk and the desk table. I take it the chair was a wooden chair?—A. Straight back type.

Q. Straight back type. Did you examine that to see
177 if anything was concealed there?—A. Yes.

Q. Did you find anything?—A. No, sir.

Q. As to this desk table, the way you have marked it on your
little plan here it looks as though it was just a plain table with a
flat top. Is that right?—A. Yes.

Q. And the word "desk" is just a means of identifying it for our
purposes here in this case; it did not really look like a desk?—A.
It looked like a desk. It had a drawer and had various writing
materials and equipment on it.

Q. The writing materials and equipment on top, and the drawer
was what led you to describe it as a desk?—A. Yes.

Q. When you went to open that drawer was it padlocked?—
A. No.

Q. Was it locked in any way?—A. I didn't search the desk my
self. I observed Agent Crow searching that part of the room.

Q. So that you would not want to say about the desk table?

A. Nor the contents.

Q. I better reserve that for Mr. Crow?—A. I think it would be
best.

Q. As far as you know, however, there was nothing locked up
there?—A. No, sir.

178 Q. That brings us around to the cupboard. Did you
examine that cupboard yourself?—A. No, sir.

Q. So that is also something that we can put a "W" for Mr.
Wolff on?—A. Mr. Crow.

Q. I beg pardon. I beg your pardon. I am getting a little goofy
here. We will put that "C" opposite the cupboard and ask Mr.
Crow about it. He would know about the search of the cupboard,
would he?—A. I suppose so.

Q. I mean you and he were there?—A. Oh, yes.

Q. And he was the one examined the cupboard?—A. That is
right.

Q. That brings us to another chair by the window. Was that
an armchair, a stuffed chair?—A. Yes; that was a stuffed chair;
an armchair.

Q. This stuffed chair you have marked over here near the win-
dow is the one you have in mind now?—A. Yes, sir; that is the one.

Q. Did you search that to see if there was anything hidden in
it?—A. Yes, sir.

Q. Did you find anything?—A. No, sir.

Q. Did you make a careful and sufficient search to satisfy
yourself there was nothing there?—A. Yes.

Q. That brings us around to the bookcase. You already told
the jury you knew the money was in this particular book, so

170 you had no trouble finding that. Did you look through everything else in the bookcase?—A. Yes.

Q. Did you find anything?—A. Various notebooks, and I have one of the post cards you have already mentioned.

Q. Were those in general notebooks containing various things that Mr. Cramer had studied in connection with his work in the boiler rooms?—A. Well, some appeared to be and some just ordinary writing. Some were in German, and of course I was not able to tell.

Q. But so far as you could tell they were notebooks having to do with his work?—A. Yes.

Q. And perhaps containing some other writing, too, which I don't question you particularly about. Was the postal card you refer to in one of those notebooks?—A. Yes.

Q. Did you find anything in any of the books that was folded up in there like this money?—A. Nothing other than markers.

Q. That brings us around to the dresser. Did that dresser, in general, contain clothes?—A. Yes, sir.

Q. Were the drawers of the dresser locked?—A. No; they were open.

Q. Was it in one of those open drawers that you found some of these papers that have been identified today?—A. They
180 were open, in that they were unlocked. I found most of those papers in the two top dresser drawers. They were small dresser drawers; they did not extend the entire length of the dresser.

Q. But you had no trouble opening the drawers and seeing the papers right in there?—A. No.

Q. Then you looked in the wastebasket and found these papers that you put together. Was anything else in there?—A. No, sir.

Mr. MEDINA: I offer in evidence this diagram.

Mr. CORREA: No objection.

(Marked "Defendant's Exhibit B.")

Mr. MEDINA: May I mention this to the jury, your Honor. (To jury): I do not think it is necessary to hand this around, gentlemen. You see here is where the door opened up, and I followed it around this way [illustrating] in questioning the witness. There is where the little radio table was, there is the bed, the desk, the cupboard and the chair near the window, and the bookcase and the dresser and the wastebasket; and back to the door again. If any of you would like to see it more closely I will be very glad to have it passed around. Perhaps I will hand it to the foreman [tending to foreman] and if anybody wants it he can look at it.

That is all.

181. WALTER ALLEN CROW, called as a witness on behalf of the Government.

Mr. CORREA. If your Honor please, at this time the Government will offer in evidence Exhibit 3; for identification which has been identified as Kerling's money belt; Exhibit 29, the marine cap found on the Long Island shore; a photograph of Burger's money belt which I shall ask to have marked with the next exhibit number for identification.

(Photograph marked "Government's Exhibit 33-A" for identification.)

Mr. MEDINA. I make the same objection to these that I made this morning when the photographs of the boxes of explosives and matters of that kind were offered, that it is irrelevant and prejudicial.

The COURT. Your exception is noted, Mr. Medina.

Mr. CORREA. Government's Exhibit 33-A for identification is a photograph of an exhibit we had here this morning, which will be no longer available to us here. We are offering the photograph, and I understood this morning there was no objection to the photograph as such, although there may be objection to the exhibit.

Mr. MEDINA. That is right, I object to the exhibit as irrelevant on the grounds previously stated, but I do not raise the question of its being a photograph.

182. Mr. CORREA. Exhibit 33-A is a photograph of Burger's money belt.

The COURT. The objection to that is overruled.

Mr. MEDINA. Exception.

(Government's Exhibits 29, 33-A, and 35 for identification now marked in evidence.)

Mr. CORREA. May these be shown to the jury, your Honor, if they desire to see them.

Your Honor will recall this morning there were two shovels marked respectively "Exhibits 31 and 32" for identification, they being the shovels which were discovered on the beach in Florida, at the place where Kerling and Thiel or near where Kerling and Thiel landed. It was agreed this morning that inasmuch as the physical exhibits would not be present, photographs could be substituted for them, and I should like to offer photographs of those two exhibits as Government's Exhibits 31-A and 32-A.

Mr. MEDINA. I make the same objection, your Honor. Not, however, to the use of the photographs, but to the exhibits themselves, as irrelevant, improper, and prejudicial; and I call your Honor's attention to the repetition and cumulative effect of this evidence.

The COURT. Do you mean the photograph?

183 Mr. MEDINA. No; not because it is a photograph, but these physical articles and things that were referred to in the testimony of Mr. Burger. I raised the question, as your Honor will recall, of their prejudicial character, particularly as becoming repetitious and cumulative, prejudicial, and harmful.

The COURT. I do not think the Government has gone beyond the bounds of propriety with these. The Government must show that these persons charged in the indictment as being enemies were enemies, and the jury has to be convinced of that by proof.

Mr. MEDINA. Your Honor will recall my admission on that subject in my opening, and I made no objections to Mr. Burger's testimony because I felt they were entitled to prove it in some proper way and without undue emphasis and repetition.

The COURT. I will not allow the Government to go beyond reasonable bounds.

Mr. CORREA. We have no intention of doing that, your Honor.

Mr. MEDINA. Of course your Honor realizes my point is these reasonable bounds have long since been passed, and I with the utmost respect except to your Honor's ruling.

(Government's Exhibits 31-A and 32-A for identification now marked in evidence.)

184 Mr. CORREA. If your Honor please, the last is this batch of exhibits which were identified this morning, consisting of photographs of four overseas caps of the Germany infantry which were found in Florida and identified by the witness Burger, and the originals of which, as we explained this morning, are not here. I understand there is no objection to the photographs as such. The exhibit number on these four caps is Exhibit No. 28 one exhibit. They were marked as a single exhibit.

Mr. MEDINA. I think your Honor indulge me this morning in the privilege of having an objection to this particular line noted without repeating it each time.

The COURT. Yes; all that is taking place right now—

Mr. MEDINA. I merely want to protect myself on the record.

The COURT. Yes; but all that is taking place right now is the substitution of photographs for the originals.

Mr. CORREA. Of the four caps, your Honor. We are also marking them in evidence, which we did not do this morning, but which we do now in the light of the further proof which has developed.

Mr. MEDINA. Kindly note my exception.

185 (Government's Exhibits No. 28-A for identification now marked in evidence.)

Mr. CORREA. And the last exhibit is Government's Exhibit 30, if your Honor please, the remaining shovel, that being, if your Honor please, the Long Island shovel identified by the witness Burger.

The COURT. This is the shovel from Amagansett?

Mr. CORREA. Yes, sir. That Burger identified—he being of that group.

(Government's Exhibit 30 for identification now marked in evidence.)

Mr. CORREA (to jury): Exhibit 28—A in evidence, gentlemen, is a photograph of the four caps identified this morning by the witness Burger, and the testimony about it was that they were found in the sand on the beach in Florida.

The COURT. Do you wish to show this to the jury?

Mr. CORREA. I think they have seen it, your Honor. Unless they want to pass it around.

The COURT. They might be interested in seeing it.

Mr. CORREA. I did not know that it was received.

Mr. MEDINA. I think I have noted my objection, and I think the Court has allowed me to have an exception to that whole line of proof.

The COURT. Yes; there can be no question about it.

Mr. MEDINA. Mr. Correa just asked me that. I was not raising it again, your Honor.

Mr. CORREA. I had not shown this exhibit to counsel, your Honor. I take it that it is received.

The COURT. Yes. Mr. Medina, you are quite right; you have a general exception to this testimony.

Mr. CORREA (to jury): Gentlemen, Exhibit 30 as received is one of the three shovels in evidence. For the others photographs have been substituted. I will leave it here; and you may pass it around or do whatever you wish to do.

Direct examination by Mr. BURKE:

Q. What is your occupation, Mr. Crow?—A. I am a special agent of the Federal Bureau of Investigation.

Q. Attached to what office?—A. The New York office.

Q. Did you participate with Special Agent Carden in the search of Cramer's room at 171 East 83rd Street?—A. Yes, I did; on June 28th.

Q. Will you look at Defendant's Exhibit A, the money belt [handing to witness]. Were you present when that was found in Cramer's room?—A. I believe this is the belt which was found when I was present.

187 Q. Is there any way in which you are able to determine whether it is or not?—A. I would say so from the way the seams are sewed and also torn. At the time Agent Carden found the belt he placed an appropriate tag upon it, and I now see this tag. So I therefore identify it as the Belt which was found.

Q. Where was it found?—A. As Agent Carden described, it was found in this tin box which was located underneath what

you have called the radio table, just to the right of the door as one enters the room.

Q. Were you present when money was found in a book in Cramer's room?—A. I was.

Q. Will you describe that?—A. The money?

Q. Yes.—A. The money consisted of two \$20 bills and three \$20 bills.

Q. And where was it found?—A. It was found within the pages of a book whose title as I recall was "Knowledge of Music" and that book was located on the central bookshelf.

Mr. BURKE. That is all.

Cross examination by Mr. MEDINA.

Q. There were two articles on this rough diagram Defendant's Exhibit B which I understand you searched. The first of these is the desk table. Did you examine that desk table?—A. Yes; I did.

188 Q. There was a drawer in that table, was there not?—

Av Yes; there was.

Q. Just one drawer?—A. I only recall one drawer; the small one.

Q. On the top of the desk table was there a blotter or some sort of a covering? A. Well, the obvious thing about the table was that it had a drafting board on top. I believe there was also a T-square and a French curve used in mechanical drawing, and some pencils. So that one had to lift up the drafting board to see the surface of the table itself.

Q. Did the drafting board have a solid body to serve to conceal something it was placed on top of?—A. No; it was an ordinary board.

Q. Did you find anything on top of that table besides the writing articles and the drafting board?—A. Nothing of consequence.

Q. This drawer of the desk, was that locked?—A. No.

Q. When you opened it did you find certain papers in there?—A. I recall seeing pencils in there, I believe. I don't think the drawer even had a lock. I think it was a simple table. At any rate there was no obvious means of concealment or effort to conceal as far as that drawer was concerned.

Q. Well did you find anything in that drawer that was
189 handed over later to the Department or to the United States attorney?—A. No; nothing has been handed to him?

Q. So nothing of interest was found in that drawer?—A. That is correct.

Q. As to the cupboard, did you make a careful search of the cupboard?—A. A very careful search.

Q. Did you find anything in there?—A. Quite a good deal.

Q. Were those articles papers or clothing, or what sort of things did you find in the cupboard?—A. Well, both items that you have mentioned. The cupboard can probably best be described as a large Dutch cupboard that was—it was really a closet which was out from the wall, so that it was a separate closet in the corner of the room, the upper part of which consisted of a place where clothing was hung; coats and suits and other things. The lower part consisted of drawers which contained various papers, letters, photographs, and other miscellaneous items.

Q. Were those drawers locked?—A. Oh, no.

Q. They were open just the way the drawers of the dresser were open; were they?—A. Yes.

Q. And whatever papers and photographs and things of that kind were in those drawers in the bottom of the cupboard, they have not yet been identified here but they are in the possession of the Government?—A. That is correct.

Q. You have heard the testimony given by your colleague, the previous witness, have you not?—A. I did.

Q. Do you corroborate what he says about the search that was made around that bed and so on?—A. I think he covered our search thoroughly.

Q. Yes; and your recollection is just the same as his?—A. In accordance with his.

Mr. MURKIN. That is all.

Mr. CORREA. That is all, Mr. Crow. Thank you.

JOHN G. WILLIS, called as witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. CORREA:

Q. Mr. Willis, you are a special agent of the Federal Bureau of Investigation; are you not, sir?—A. Yes, sir.

Q. And on the evening of June 23rd of this year were you at or in the vicinity of the Twin Oaks Inn, which has been referred to in previous testimony here?—A. I was.

Q. And at what time during that evening were you there?—A. I was there continually between 8:20 p. m. and 11:20 p. m., in the vicinity or in the Twin Oaks Inn.

Q. Did you at any time in the course of that evening during the period you have mentioned, see the defendant Anthony Cramer?—A. Yes, sir.

Q. When and where did you first see him that evening?—A. When I first went into the Twin Oaks Inn.

Q. And the time then was approximately what?—A. Somewhere between 9 and 9:15; that is a rough guess, Mr. Correa.

Q. And where was he in the Twin Oaks Inn?—A. Sitting at a table with two other gentlemen.

Q. I show you Government's exhibits which have been marked in evidence 5 and 6, and ask you can you identify those photographs?—A. Yes, sir.

Q. Are they photographs of the individuals with whom the defendant Cramer was sitting on the occasion you just described?—A. They are.

MR. CORREA. Referring to the photograph, Exhibit 5, of Edward John Kerling, and Exhibit 6 of Werner Thiel.

THE COURT. What time did you say you first went to the Twin Oaks Inn?

THE WITNESS. I arrived in the vicinity, your Honor, about 8:20 p. m., or 8:30.

Q. Now, sir, at the time you observed these three men, including the defendant Cramer, sitting in the Twin Oaks Inn, what, so far as your observation went, were they doing?—A. Drinking and talking.

Q. And how long did you observe the three of them there together?—A. Until Kerling left about 9:30, and then 192 Thiel and Cramer were together until they left at eleven.

Q. And did you continue to observe Thiel and Cramer together until eleven o'clock?—A. Yes, sir.

Q. That is, you remained in the restaurant?—A. Either in or outside. I would never stay in all through the evening, Mr. Correa.

Q. But at a point outside from which you were able to observe?—A. Correct; yes, sir.

Q. Now at eleven p. m. you state Cramer and Thiel left the place?—A. Yes, sir.

Q. And did you observe his movements from that point on?—A. As I repeat, they left the Twin Oaks Inn and walked down to 3rd and Third Avenue, and finally up to 42nd Street in the vicinity of Thompson's cafeteria at East 42nd Street and Lexington Avenue, and Vanderbilt, and they went into the Thompson cafeteria and as previously stated stayed there a while having refreshment, and came out and walked back again and parted finally about 11:30 that night.

Q. During this period, that is, from the time Cramer and Thiel left the Twin Oaks Inn, until they finally parted after leaving Thompson's cafeteria, you were observing them all the while, is that correct?—A. Yes, sir.

Q. And were you in the company of some of these other agents who have testified here, also observing them?—
193 A. Yes, sir.

Q. And did you observe Cramer after he parted from Thiel?—

Cramer was within my observation from the time he left Thiel until the time he walked in his door at 171 East 83rd Street.

Q. All right. Will you tell us, sir, what he did?—A. At eleven thirty that night when he left Thiel he walked into Grand Central Terminal and found out that was the wrong entrance to the subway, evidently, because he turned around and walked out and then walked into the next entrance, proceeding by way of the Lexington Avenue subway to 86th Street and walked from 86th Street station to 171 East 83rd Street, which is on the corner of Third Avenue. He arrived there, I imagine, at about 11:45 or 11:50.

Q. Now, sir, I direct your attention to the second day thereafter, June 25th, and to the morning of that day, and I ask you did you see the defendant Cramer in the morning of the 25th day of June?—A. I did.

Q. When and where did you see him, sir?—A. I saw him approximately 10:30 the morning of June 25, 1942, when he walked out of the front entrance of the apartment house at 171 East 83rd Street.

Q. That is, you were stationed outside of the house, is that correct?—A. Yes, sir.

Q. And will you tell us what you observed with respect to the defendant Cramer?—A. I observed Cramer walk up Third Avenue to 86th Street, and turn left on 86th Street and enter the 86th Street branch of the Corn Exchange Bank.

Q. You were in the company of other agents during this surveillance?—A. I was in the company of Special Agent K. R. Routen, and C. L. Green.

Q. By the way, did you observe one of the agents enter the bank after Cramer?—A. Agent Routen followed Cramer into the bank.

Q. You did not, sir?—A. No, sir.

The COURT: Mr. Correa, we will have to suspend now as I have an appointment upstairs. We will adjourn, gentlemen of the jury, until Thursday at half past ten, tomorrow being Armistice Day.

(Adjourned until Thursday, November 12, 1942, at 10:30 a. m.)

195 [Title omitted.]

NEW YORK, November 12, 1942, 10:30 a. m.

Trial resumed.

JOHN G. WILLIS resumed the stand.

Direct examination continued by Mr. CORREA.

Q. Mr. Willis, I think on Tuesday you had already testified

concerning your surveillance of the defendant Cramer on the evening of June 23rd; is that correct, sir?—A. Yes, sir.

Q. And I believe we started on the morning of June 25th, which was the second day after that, is that correct?—A. Yes, sir.

Q. You told us, did you not, that you first saw Cramer on that morning at about ten-thirty a. m. when he left his house at 171 East 83rd Street?—A. That is correct.

Q. I am not sure whether you told us what you observed from that point on, or, in any event, would you tell us what you did observe from that point on?—A. He walked directly from his house to the Corn Exchange Bank, 86th Street branch, on 86th

Street west of Lexington Avenue. He entered the bank at 196 about 10:50 that morning. I took a position across the street from the bank and Agent Routen followed Cramer into the bank.

Q. And Agent Routen had been with you, I take it, from the time Cramer came out of his house?—A. The agents with me from the time Cramer came out of the house were Agent Routen and C. L. Green.

Q. Now, sir, did you observe Cramer any more that day?—A. Yes, sir.

Q. When?—A. I was with him all that day until about eight-thirty that night.

Q. I direct your attention to the evening of that day, and specifically the hour between seven and eight of the evening. When and where did you see Cramer during that hour?—A. At 7:45 p. m. that night he left his home at 171 East 83rd Street and went downtown by way of the Lexington Avenue subway, arriving there about eight p. m.

Q. Where downtown, what station?—A. He got off at the Grand Central terminal and walked up, arriving at East 42nd Street between Lexington and Madison Avenues, where he entered Thompson's restaurant.

Q. That is the same restaurant, I believe, you referred to in connection with your surveillance of the 23rd?—A. Yes, sir; that is the same one. He stayed there a few minutes and looked around, and then came out and walked up to East 44th Street and Lexington Avenue and looked into the Twin Oaks Inn.

Q. That is the same Twin Oaks Inn of which we have heard so much in this case?—A. That is the same one.

Q. Then what did he do?—A. After looking around the Twin Oaks Inn, he went back to Thompson's restaurant at East 42nd Street.

Q. And did you see him any more after that that evening?—

A. The surveillance was taken up at that time by Agents Chappellear and Duncan, and I went home.

Q. You did not see him any more that evening?—A. No, sir.

Q. All right, sir. I direct your attention to the 27th of June, and I ask you did you on that day see the defendant Cramer?—

A. I did, sir.

Q. And where, sir, did you see him?—A. Coming out of his house.

Q. At what hour of the day?—A. About 10:15 or 10:30 that morning. He got on the subway again, the same subway, and got off at the Grand Central terminal and walked into the Commodore Hotel.

Q. On this occasion, sir, were you alone or were there other agents of the Bureau with you?—A. Agent MacInnes accompanied me.

Q. Did you and Agent MacInnes see Cramer again that day?

A. Yes, sir; we did.

Q. When?—A. I saw him again about 8:35 p. m. that night when he came out of his house again.

Q. Did you see him again on the 27th prior to 8:35 in the evening?—A. No, sir; I did not see him.

Q. Did you see Cramer in the afternoon of that day?—A. No, sir.

Q. Now, sir, you say you saw him at 8:35 in the evening of the 27th?—A. Yes, sir.

Q. And where did you see him?—A. He was coming out of his residence at 171 East 84th Street.

Q. Were there other agents with you at this time?—A. Yes. Agents Duncan, Chappellear, and MacInnes.

Q. Will you tell us what you observed?—A. I observed Cramer walk from his residence to the Kolping House at 165 East 84th Street, where he entered about 9:15.

Q. And did you follow him in?—A. No, sir.

Q. Did you subsequently enter the Kolping House?—A. I did at 10:30 p. m. that night.

Q. And what occurred then?—A. I saw Cramer in the room, and I asked him to step outside, where I identified my self at which time I was with Agents Duncan and MacInnes, and we asked him to come down to the New York office of the F. B. I.; we wanted to talk to him.

Q. Did he do that?—A. Yes, sir.

Q. The New York office was located in this building 160 in which we are now, was it not, sir?—A. Yes, sir.

Q. Did you see him there?—A. I brought him down here, sir.

Q. Did you talk to him here, that is what I meant?—A. Yes, sir. We arrived at 11:20 and I was with him until two a. m. the next day.

Q. In the course of that period of time, from 11:20 approximately on the 27th, evening of the 27th, until two a. m. the morning of the 28th, did you interview Cramer, that is, did you ask him questions and did he make answers to you?—A. Yes, sir.

Q. Now, sir, at the beginning of the interview did you ask him any questions concerning the man in whose company he had been in Thompson's cafeteria on the evening of the 23rd?—A. We did. We asked him who that man was.

Q. And will you tell us what he stated to you at the beginning of the interview on that subject, sir?—A. He told us it was a man named William Thomas, whom he had met in 1929 in Detroit.

Q. And did he say anything else concerning this William Thomas, as he called him?—A. Yes, sir; he said—

Q. Will you tell us what he said, sir.—A. (Continuing.)—He became friendly with William Thomas, and they left Detroit about 1930 and continued their acquaintance in New York City; that in March of 1941 Thomas had gone to the West Coast to take a job in a factory and that the last time he saw him was in June 1942.

200 Q. Did you ask him any questions in the course of the conversation as to whether or not William Thomas had been out of the United States to his knowledge?—A. Yes, he said that William Thomas had not been out of the United States.

Q. During what period?—A. During the period of his acquaintanceship from 1929 to the time of Cramer's questioning.

Q. Did there come a time in this interview when Cramer stated that he knew that William Thomas was in fact Werner Thiel?—A. Yes; he admitted that fact.

Q. Will you tell me how that came about?—A. We asked him if it was not true that the William Thomas he was telling about was Werner Thiel and he said yes, it is.

Q. Did you make any inquiry about the use of the name "William Thomas"?—A. Yes; he said that—we asked him why Werner Thiel was using the alias of William Thomas, and he said that Thiel was having difficulty with the draft board.

Q. You then asked him certain questions about Werner Thiel, did you not?—A. Yes, sir.

Q. Again will you tell us, in substance, what questions you asked him concerning Thiel, and what answers he made to you?

A. We asked him where he met Werner Thiel, and he said he met him in Detroit in 1929 and that the friend

ship continued when they both moved to New York City and that Werner Thiel had left New York City in March 1941, to take a job on the west coast in a factory.

Q. He said Werner Thiel had left New York City in March of 1941 to take a job in a factory?—A. In a factory on the west coast.

Q. Yes?—A. And that from that time until June of '42 he had not seen Werner Thiel, and the first time he saw him was the night of June 22 or 23, as near as Cramer could recall.

Q. Did you ask him any questions as to whether Werner Thiel had been out of the United States?—A. Yes; we asked him the same question.

Q. As you asked with respect to William Thomas?—A. Yes; repeated the same.

Q. What did he say to that, sir?—A. He said that Werner Thiel had not been out of the United States either.

Q. Now, sir, at this point of the interview did you ask Cramer any questions on the subject of whether or not Werner Thiel had given him anything at any of his meetings with him in June of 1942?—A. Yes sir; we did.

Q. Will you tell us what the defendant Cramer said on that subject at this interview?—A. He said that Werner Thiel had given him a money belt and that Werner Thiel told him that the money belt contained \$200 which he wanted Cramer to keep, because Thiel said "I owe you that much money and I want to pay my debt to you." Cramer said he did not count the money, but he assumed Thiel was not lying about the sum, the money in the belt, and that Cramer just took it home and had put it in his shoeshine box.

Q. Did he say anything about whether he was going to use the belt padded with the money for the purpose of shining his shoes?—A. That was not mentioned, sir.

Q. Did you at this time have any discussion with the defendant Cramer concerning his safe deposit box?—A. Yes sir; we did.

Q. Will you tell us just how that subject was brought up and what questions you asked of him on it, and what replies the defendant Cramer made, as closely as you are able to recall it?—

A. Well, we wanted to know—

Q. Just tell us what questions you asked him.—A. Yes. We asked him whether he had a safe deposit box at the Corn Exchange Bank at the 86th Street branch and he said he did. We asked him what was in it and he said there was about \$3,500 there. We said, "Is it yours?" And he said "It is." We said, "Where did you get that money?" He said, "From the sale of securities on Wall Street." So we said "What securities did you or

203 do you now own?" And he listed a few, and we asked what he had sold and the prices he had gotten for them, and the result did not come anywhere near \$3,500. So he continued to explain it by saying that the money had also been accumulated by him throughout a period of saving. So we asked him did he have a savings account in the bank and he said he did. We said "Well why don't you keep your money in the savings account rather than the safe deposit box?" He said, "Well I feel it is more safe in the safe deposit box rather than being in my bank account."

Q. Would that be substantially what he stated at this stage of the interview concerning the money in the safe deposit box?—A. Yes, sir.

Q. Now, sir, was there a point in the interview—I withdraw that and ask you first were there other agents present who were also participating in this interview?—A. Yes, sir; Agent Ostholthoff.

Q. Was there a point in the interview when the defendant Cramer spoke to agent Ostholthoff alone?—A. Yes, sir; he asked for permission to speak to Ostholthoff alone.

Q. Did they speak together for how long?—A. Not over five to ten minutes.

Q. After Cramer had spoken to agent Ostholthoff did you again rejoin the interview, sir?—A. Yes, sir.

Q. With Mr. Ostholthoff?—A. I did.

204 Q. At that time did you have any conversation with the defendant Cramer concerning his prior statements, that is his statements up to the time he spoke with agent Ostholthoff alone?—A. Yes; he said that what he had told us about the ownership of the money and Werner Thiel was wrong, but that he wanted to protect Werner Thiel and so he had given us these stories.

Q. You say what he said he had told you about money and Werner Thiel was wrong?—A. A falsehood.

Q. That it was just not so?—A. That is right.

Q. He said the reason was what?—A. That he wanted to protect Werner Thiel.

Q. Did he state protect him from what?—A. He wanted to protect him because Werner Thiel was his friend.

Q. Did he say anything more than that?—A. No, sir.

Q. Did he then make different statements about I will say the money belt first?—A. Yes, sir.

Q. And the money?—A. Yes, sir.

Q. Will you tell us what different statement he made now in this interview you are describing on the evening of the 27th and the early morning of the 28th?—A. With respect to the money belt and the money?

Q. Yes; if you please.—A. He said that Werner Thiel told him at the Twin Oaks Inn on the night of June 23, 1942, that
 205 he had a lot of money with him, anywhere from \$3,500 to \$4,000, and he said "I want a safe place to keep that." So Cramer said, "Well I have got a safe deposit box in the bank you can use," and Werner Thiel assented to this proposal, but he said "Don't put it all in the safe deposit box, keep some of the money out in the event I need it in a hurry."

Q. That is, Thiel said this?—A. To Cramer.

Q. According to Cramer?—A. According to Cramer; yes. So that night on June 23, 1942, Thiel gave him the money belt at the Twin Oaks Inn, which Cramer brought home that night or early morning of the 24th and put in a shoe-shine box in his room.

Q. This was a money belt containing what, according to Cramer?—A. Yes, sir.

Q. Containing what, I said?—A. Oh, I thought you said "wad."

Q. No.—A. \$3,500.

Q. By the way, at this point did Cramer say anything about shining his shoes with the money belt?—A. That was not mentioned.

Q. Was it ever mentioned there at any point?—A. At no point.

Q. Go ahead; I think I interrupted you.—A. Cramer said, "I put the money in the shoe-shine box and went to bed," because
 206 he had to get up the next day to go to work, and when he returned home the next night of the 24th he took the money out of the belt and counted it, and at this time he divided the money up into the denominations of the bills and the amount of each denomination, putting it on a little slip of paper which he then kept on his person. On the morning of the 25th he deposited \$3,500—I withdraw that, he brought \$3,500 to the 30th Street branch of the Corn Exchange Bank and placed it in a safe deposit box, but prior to placing that money in a safe deposit box he paid another year's rent for the box, which was running out on July 3, 1942.

Q. Did he make any statement to you concerning whether or not he had, pursuant to what he told you was Thiel's request to him, held out any of the money?—A. Yes; he did.

Q. What did he say on that subject, sir?—A. He said that he kept part of the money out, something like 100 or 125, in his room, which he placed in a book entitled "Knowledge of Music" in accordance with Thiel's instructions that some money was to be kept in his room in the event Thiel needed it in a hurry.

Q. Now, sir, in the course of this questioning at the interview in the late evening of the 27th and the early morning of the 28th, were there agents present there during the three days or

297 four days from the 23rd to the 27th who had seen Cramer in the company of the woman?—A. Yes, sir.

Q. Was there any occasion or conversation with Cramer concerning the identity of that person?—A. There was.

Q. Will you tell us what was said by the defendant Cramer on that subject, sir?—A. On the subject of who that woman was with him on the 27th, he said that that was a girl named Norma Kopf, and that Norma Kopf was Werner Thiel's girl friend when Werner lived in New York City, and that when Cramer first met Thiel, Thiel asked him how was Norma.

Q. Go right ahead, please.—A. Thiel said "I would like to see Norma again, could you arrange it for me?" And Cramer said that he would. It was in reply to a letter Cramer wrote to Norma Kopf, who was then in Connecticut—

Q. That is what he told you at this time?—A. Yes. That Kopf came down to see Cramer.

Q. Did he make any statement on the subject of where he was going with Miss Kopf on the day he was observed by the agents?

—A. Yes, sir. He was going to Thompson's cafeteria in accordance with a prearranged plan which Cramer had set out in a letter to Werner Thiel which he left at the Hotel Commodore on 298 the morning that we saw him there.

Q. In other words, he was bringing her down to meet Thiel?—A. To meet Thiel.

Q. All right, sir. Now, sir, have you covered substantially all of the points discussed in this interview to which we have referred?—A. Yes, sir.

Q. By the way, sir, had you seen Cramer in company with Miss Kopf at any time during your surveillance?—A. On the 27th, on the afternoon of the 27th at Thompson's cafeteria I saw them together.

Q. I think you omitted to mention that before, sir.—A. I see.

Q. When on the afternoon of the 27th?—A. When he came out of his apartment on the evening of the 27th, about quarter to 4.

Q. About quarter to 4?—A. Then he and Norma went to Thompson's cafeteria, arriving there about 4 to 4.10, and—

Q. And you followed him right from his apartment down to the cafeteria?—A. Yes, and in the cafeteria, that is Thompson's cafeteria.

Q. Did you observe them leave Thompson's cafeteria?—A. Yes, sir.

Q. Where did they go from there?—A. I stayed at Thompson's cafeteria, sir.

299 Q. Now, sir, I show you Government's Exhibit 55 for identification, which consists of a newspaper clipping or a newspaper page, really, and a writing annexed to it, and I ask

you first if you have seen that before?—A. I have seen both of them before.

Q. And referring to the writing annexed to it, was that executed by the defendant Anthony Cramer in your presence?—A. It was.

Q. And he wrote his name to that and the substance of that?—A. Yes, sir; and I witnessed it.

Q. Did he also make any statement to you orally concerning this particular exhibit?—A. Yes. In reply to my questions to him concerning certain ink lines appearing on the paper.

Q. That is in the newspaper; is that correct?—A. In the newspaper.

Q. What did he say as to the ink lines?—A. The question put to him was when he had made those ink lines.

Q. And what was his answer, sir?—A. The first answer was that it was about two years ago; subsequently he changed it to say that it was between one and two years ago—made by him.

Mr. CORREA. If your Honor please, at this time I should like also to offer the writing, which is a part of this exhibit, not 210 for its content at this time but simply as a handwriting standard, and for that purpose only.

Mr. MEDINA. As to the paper, your Honor, I shall have a very serious objection to that which I wish some opportunity to state in due course.

Mr. CORREA. That is not offered.

Mr. MEDINA. I do not understand at this time that any effort is being made to offer any part of the newspaper page. Am I correct about that?

Mr. CORREA. Yes. I think my statement was clear. I am offering the writing as a handwriting standard; not for its contents and not for the paper at all at this time.

Mr. MEDINA. With that limitation I make no objection to that at all, but I did want to have it clearly understood by the Court that as to the other paper I will seriously object in due course.

Mr. CORREA. I suggest that this be marked Exhibit 55-A in evidence; just the writing, because we may offer the other in due course, too.

Mr. MEDINA. May I just read that before it is marked in. It is not the contents, but just let me take a look at it. (After examining.) All right.

(Marked "Government's Exhibit 55-A" in evidence.)

Mr. CORREA. May this paper be marked for identification as the Government's next exhibit.

(Marked "Government's Exhibit 66" for identification.)

211 Mr. CORREA. And also this paper.

(Marked "Government's Exhibit 67" for identification.)

Q. Now, sir; I show you Government's Exhibit 66 for identifi

cation, consisting of this slip of paper with writing in ink on both sides, and ask you first was that paper discussed by you with the defendant Cramer at any time?—A. Yes, sir.

Q. And did he make any statement to you concerning that paper, sir?—A. He said the numerals appearing on it were written by him.

Q. And did he say when or in what connection the numerals appearing on it were written?—A. Yes. This is a paper I referred to previously as having been written by him when he counted the money and set down the different denominations of the bills that Thiel had given to him for safekeeping.

Q. How about the writing on the other side of the paper? Can you tell us what that is and when it was made?—A. The writing is that of Anthony Cramer made at my request, identifying the writing appearing on the other side as having been written by him. It was witnessed by me.

Q. That, I take it, is your signature which appears down in the lower left hand corner; is that correct?—A. Yes, sir.

212 Mr. CERRA. I offer in evidence, if your Honor please, Government's Exhibit 66 for identification.

Mr. MEDINA. No objection.

(Government's Exhibit 66 for identification received in evidence.)

Mr. CERRA. May I call the jury's attention to the exhibit, if your Honor please.

Gentlemen: Government's Exhibit 66 in evidence is this slip of paper. I will read the notations, if I may. It reads: "71-50;

5-208; 10-28; gold notes." And then there is a tabulation over here: \$3,550, \$420 apparently added to that, and then a minus \$200 and then what apparently is the total, \$3,470.

Q. By the way, did he explain what "71-50" meant?—A. Yes; there were 71 \$50 bills in the money belt.

Q. And the "5-20"?—A. Five \$20 bills.

Q. And the "10-2"?—A. Ten \$2 bills.

Q. And the 8 gold notes.—A. It appears among the \$50 bills were 8 gold notes.

Q. Included in the 71?—A. Yes, sir.

Mr. CERRA. Then on the other side of the exhibit the statement which the witness has testified he had Cramer write thereon is:

"August 12, 1942. I hereby identify the writing on the back of this page as my own writing. The figures were made by me to indicate the denominations of cash of each bill given to me by Werner Thiel on June 23, 1942, and the amount of each denomination. The total sum according to those figures amounts to

\$3,670. Anthony Cramer," and witnessed by John G. Willis, FBI, New York City.

Q. I show you Government's Exhibit 67 for identification which consists of a sheet of graph paper with handwriting on it, and an envelope with handwriting on both sides, and on the outside of the envelope; and I ask you as to that exhibits, first was this discussed by you and the defendant Cramer at any time?—A. Yes; I asked him if he had written it.

Q. And tell us what he said on that subject, sir.—A. He said he had written both the envelope and the note and in confirmation of what he told me, he identified the note and the letter in writing, both of which exhibits are witnessed by me.

Q. At the time you first discussed the note and the envelope with him, let me ask you, did he write on the back of the envelope whatever appears on there?—A. No, sir. That was placed on in my presence at my request.

Q. By Mr. Cramer?—A. By Mr. Cramer.

214. Q. And it is witnessed by you, is it not, sir? A. Yes, sir.

Q. Now I refer you to the writing appearing on the bottom of the note under the date August 10, 1942, and ask you did that appear at the bottom of the next one as you discussed the note with the defendant Cramer? A. No, sir; it did not.

Q. And when was that placed there, if you know?—A. It was placed there by Cramer at my request on August 10, 1942, at the time I showed him that note.

Q. And, in your presence, sir?—A. Yes, sir, and witnessed by me.

Mr. CORREA. I offer in evidence at this time, if your Honor please, Government's Exhibit 67 for identification.

Mr. MEDINA. No objection.

(Government's Exhibit 67 for identification received in evidence.)

Mr. CORREA. May I call the exhibit again to the attention of the jury, if your Honor please. Members of the jury, Government's Exhibit 67 consists of an envelope and note. The envelope is, as you see, addressed to "Mr. William Thomas, Hotel Commodore, City," and bears on the back this legend: "August 10, 1942. I

215 hereby identify the handwriting appearing on the opposite side of this envelope as my own. Anthony Cramer." And witnessed by M. R. Griffin.

Q. A special agent of the Bureau, is that correct?—A. Yes, sir.

Mr. CORREA. (Continuing.) And John G. Willis, and the note reads (reading to jury).

Then the writing, according to the testimony of the witness, by the defendant under date August 10, 1942 (reading).

Q. Now, sir; I show you Government's Exhibit heretofore marked 63 for identification, consisting of two typewritten pages, and certain handwriting appearing on the back of one of them, and I ask you was that exhibit the subject of discussion between yourself and the defendant Cramer?—A. It was.

Q. And did he make any statement to you concerning it?—A. He said it was a copy of a letter written by him to one Hubert Thielmair on the 21st of April 1942.

Q. And referring to the writing appearing on the back of one of those pages, was that writing made in your presence?—A. It was, sir.

Q. And by whom?—A. By Anthony Cramer, and witnessed by me.

Q. Was that on the occasion when you discussed the exhibit with him?—A. Yes, sir.

216 Mr. CORREA. Now, if your Honor please, I should like to offer in evidence a part of Government's Exhibit 63 for identification, a translation of it, the writing being in German. I should like to offer the translation subject to correction in the event that the defense counsel should take a different view of the translation of the German which was made by our translator. I will offer the whole letter.

Mr. MEDINA. We have a problem, your Honor, about which I think it is better to be perfectly frank as to where the line of demarcation should come in reference to prior communications of one kind or another, such as these letters. Now my own personal thought is that a letter such as this, dated April 21, 1942, is clearly admissible, and I do not object to it. I have the problem as we work back as to where the point should come at which some objection would be sound, and I am frank to say that the only answer I can satisfy myself with is that as we get back of the declaration of war I should object to each of these. I am making this explanation of our position so that your Honor may appreciate it. No objection to this paper.

Mr. CORREA. Does your Honor wish any explanation of our position on this exhibit to come in at this time?

The COURT. I think it would be just as well to have both views.

217 Mr. CORREA. Well, if your Honor please, our position on this exhibit, as well as on exhibits of a similar nature earlier in time, is that they are probative of the defendant's state of mind and his motive. In other words we take the position that our proof as shown and our further proof will show specific intent on the part of the defendant in connection with the acts of treason which he did. And that I take it is sufficient under

the statute. However in addition to specific intent we will show a motive, the motive consisting of a deep-seated feeling of greater allegiance to Germany in this war than to the United States and indeed a strong antipathy to the position of the United States in this present war.

I take it that any communications or any writings by the defendant which are expressive of his state of mind and feeling on those subjects are relevant and material here, and I may state to your Honor that indeed it has been so held in one of the few authorities on the subject in this district. I refer to the case of *United States v. Fricke*, where very similar evidence was offered and received, and the court held it was perfectly proper for the jury to consider it on that issue of motive and intent.

Now I point out further than of course the earlier communications—it is our theory, and it will be more clear when they are all before the Court, as they will be in a moment—are in a sense brought up to date by the latter communication. In other words the whole of them taken together—the three—and we may as well know what we are discussing, because there are three communications involved here—all of them taken together indicate a continuing state of mind over a long period of time. On that theory of course they are most relevant and admissible material.

Another point in connection with these communications which I should call attention to now—

Mr. MEDINA. If your Honor please, I do not think we should have this sort of argument containing statements of fact. I thought your Honor inquired the position of the Government with respect to the point of time when the inadmissibility would take place. And Mr. Correa has indicated very clearly he thinks there is no limit as to the time. I think further discussion might conceivably be prejudicial.

Mr. CORREA. I thought your Honor wanted me to explain our position on these. I wanted to enumerate the reasons, and I think there are several, why these documents are admissible at this time. The last reason to which I am coming is that I think they are relevant on the inducement of the crime. Because our position, as we made it in the opening, is that so far as we know there was no prearrangement or prior notification with respect to Thiel being aided and comforted by the defendant Cramer. Nevertheless we point out that these documents will establish that Cramer's state of mind—

Mr. MEDINA. I object to this, your Honor. I do not think that is fair. We will have the contents of these papers before the

jury in a minute or so, so any objection I make later will be utterly futile.

Mr. CORREA. Your Honor, I want to be perfectly fair and want to be frank with you and counsel for the defense as to why we think these letters are material and admissible.

The COURT. You would rather have this discussion take place out of the presence of the jury; is that right?

Mr. MEDINA. Well, after what has taken place I am willing to move my good friend Mr. Correa in any discussion before the jury or in their absence. I merely think when we are dealing with the admissibility of papers the contents of those things should not be mentioned in the course of the discussion, otherwise the discussion is futile.

Mr. CORREA. I must confess, your Honor, I do not know, and perhaps counsel does, how we can intelligently discuss the admissibility of the exhibits without knowing what is in them. Because I conceive their admissibility is very largely attendant on what is in them. It is for that reason I feel I have to make these points. I should not have made them except that I got the impression it was counsel's desire and your Honor's desire that we all discuss this thing perfectly frankly and put right out on the table what our various feelings are on the admissibility of these exhibits. I am endeavoring to express mine as well as I can.

The COURT. This particular offer is not objected to?

Mr. MEDINA. It is not objected to, and I only raise the question of date, as to whether there was a date beyond which we ought not to go; and I thought your Honor's question to Mr. Correa was for him to merely indicate his position as to the date. Now he has indicated that and he says there is no limit; no matter how far back they go he objects to any limitation. That we may pass on when the objection is made.

Mr. CORREA. Your Honor, I think I would rather state my position myself. It is certainly not my position that there is no limit. I say there are three specific letters here and that none of them goes beyond the limit of which counsel speaks. I do not think we need to consider other letters; because there is none.

221 The COURT. The offer of this paper is received without objection, I take it.

Mr. MEDINA. There is no objection to it, your Honor.

The COURT. When the precise question is brought up it may be discussed, in the presence of the jury or if you prefer in their absence.

Mr. MEDINA. I think your Honor should decide, and not put upon us or upon the Government the burden of asking that the jury be excused. I do not want them excused, but if your Honor thinks

that they should be heard of. In a sense, we have them to your Honor to decide.

The COURT: If the Government do not want them, I would have no desire to excuse the jury.

Mr. CORREY: Your Honor, I have no objection to the matter. I would be glad to discuss it with you about the jury. I take it this exhibit in any case is received.

The COURT: Yes.

Mr. CORREY: May the translation Exhibit A. I the translation.

Mr. MEDINA: It is satisfactory; yes.

Mr. CORREY: Subject to correction.

Mr. MEDINA: Subject to correction, yes. And I believe these translations are absolutely accurate. If something should be found later on, why, you have given us a little caveat there that we can avail ourselves of in case of necessity.

Mr. CORREY: I ask that the translation be marked Exhibit 63 A, and I am marking both the original and translation.

(Marked "Government's Exhibits 63 and 63 A.")

Mr. CORREY: If your Honor please, I should like to wait till reading this to the jury until I have introduced the other two, as it seems to me it is better to read all of them at one time.

May this be marked Government's 65, and the translation again, is 65 A, for identification.

(Marked "Government's Exhibits 65 and 65 A" for identification.)

Mr. CORREY: May I have this next one marked "Government's Exhibits 69 and 69 A." That is the letter of December 3.

(Marked "Government's Exhibits 69 and 69 A" for identification.)

By Mr. CORREY:

Q. Now, sir, I show your Government's Exhibits marked for identification respectively 68 and 69 [handing to witness].

Each consists of an envelope and two typewritten pages.
223 Let me ask you, sir, did you discuss those exhibits with the defendant Cramer at any time?—A. Yes, sir; I did.

Q. Will you tell us what he said concerning each one, referring to them if you will for the sake of the record by their identification numbers?—A. He said each one had been written by him.

Q. That is, both 68 and 69?—A. Both 68 and 69; 68 to Werner Thiel and 69 to the Heinrich family.

Q. And did he make any writing on them, on the exhibits, or any part of each exhibit, to identify that?—A. These were identified by me on August 12th, by writing—identified by Cramer as his, with my initials "N. Y. D." on them.

Q. That is referring to the letters?—A. Yes, sir.

Q. The first page of each of the letters 68 and 69 for identification?—A. Yes, sir.

Q. Did you not make a similar writing on the back of each envelope?—A. Yes, sir.

Mr. CORREA. If your Honor please, I offer in evidence Government's Exhibit 68 and 68-A for identification, and 69 and 69-A for identification, and "A" exhibits in each case being translations.

Mr. MEDINA. Are these all the letters, Mr. Correa? I understood from what you said a moment ago that they were.

224 Mr. CORREA. Yes, they are all I propose to offer at this time.

Mr. MEDINA. Well, I thought they constituted all the letters, and on that basis I was going to withdraw any objection that I had indicated a moment or two ago that I would make. I notice that the earliest of these is November 25, 1941.

Mr. CORREA. I do not anticipate, counsel, offering any letters or any writing of the defendant Cramer earlier than that date.

Mr. MEDINA. Very well, then we make no objection to the receipt in evidence of either of these papers.

Mr. CORREA. Oh, excuse me, I do have a postcard, if your Honor please, which at a later time in this case, not through this witness, I propose to offer as the writing of the defendant.

Mr. MEDINA. May I see that a moment, please?

[Paper handed by Mr. Correa to Mr. Medina.]

Mr. MEDINA. Well, I am not going to make any objection to that, either. So we really have no controversy on this point, your Honor.

Mr. CORREA. Then there being no objection these exhibits will be marked.

(Government's Exhibits 68, 68-A; 69 and 69-A for identification now marked in evidence.)

224-A Mr. CORREA. May I call these to the attention of the jury, your Honor.

(To jury:) Ladies and gentlemen of the jury, this first exhibit consists of the envelope and two typewritten pages. One has writing on the back. It is an air mail envelope as you see. I will read the notations [reads from exhibit]. The translation of the letter reads as follows [reads exhibit]:

225 Mr. MEDINA. If your Honor please, I notice that the copy which Mr. Correa has furnished me is verbally quite different from the one he read, and I would like to have it understood that I may read from this copy when I come to comment upon it, although there are slight differences between it and what he has read.

Mr. CORREA. That is true, Judge. I have just noticed that. As

a matter of fact there are two translations made by different translators. As I recall the differences, they are not substantially material.

Mr. MEDINA. No, they are purely verbal.

Mr. CORREA. And I have read the ones that have been marked just for convenience.

Mr. MEDINA. All I want to be sure is that when I read from this it will be all right.

Mr. CORREA. Surely. There will be no difficulty about that at all. Now, gentlemen, the other and second letter is Exhibit 69 and the translation is 69 A, and again they have an air mail envelope and it is dated December 3rd, and a censorship stamp appears on the letter which is dated December 3, 1941 [reading exhibits].

The same is true as to the translation of the letter, I believe.

Mr. MEDINA. Yes.

Mr. CORREA. Now the last of those exhibits, Exhibit 63, is a copy of a letter and it is dated New York, April 21, 1942 [reading].

Q. Mr. Willis, I do not know that I asked you before, but after Cramer's apprehension did you go to the Corn Exchange Bank?—A. Yes, sir.

Q. And were you present at any time when Cramer's safe deposit box was opened?—A. I was.

Q. Who else was present on that occasion?—A. Agents Ruten, MacInnes, and Mr. Philip Muller, manager of the branch.

Q. And when was that, sir?—A. The date?

Q. Yes, if you recall. A. (No answer.)

Q. Was it a day or two after Cramer was apprehended?—A. Yes, sir.

Q. May I suggest a date? June 29th?—A. That is it.

Q. Does that refresh your recollection?—A. Yes, sir.

Q. Will you tell us what there was in the box when it was opened in the presence of yourself and these other individuals whom you have mentioned?—A. \$3,500 in \$50 bills.

Q. Is that all?—A. There was a last year's receipt for the box and an empty brown envelope.

Q. And did you have authority from the defendant Cramer to open his box at that time?—A. Written authority.

Mr. CORREA. You may inquire.

227 Cross-examination by Mr. MEDINA:

Q. Taking matters up right where you left off, Mr. Willis, you know that Mr. Cramer claimed that \$200 of that money he was supposed to keep for what Wegner Thiel owed him?

—A. That is what he told me; yes.

Q. That is what he told you, and that is what you have described to the jury. Now when you went into that safe deposit box, will you tell the jury exactly how you found the money in the box there?—A. Yes, sir; in the brown envelope I mentioned before there was 61 \$50 bills, and in the lower righthand corner there was 5 \$50 bills, or 4 \$50 bills, and in the upper lefthand corner there were 4 \$50 bills, or 5 \$50 bills. I am trying to get across the fact that if there was four in the upper lefthand corner, there were five in the lower righthand corner, and if there were four in the lower righthand corner there were five in the upper lefthand corner. In other words, there were nine \$50 bills lying loose.

Q. So what I wanted to bring out was, there was a place in there where in a separate pile there was \$200?—A. No.

Q. Well, you—A. Oh, yes, sir; in one corner.

Q. You said in one place a pile of four, and in another place a pile of five \$50 bills?—A. Yes, sir.

Q. And you were not sure which was which but you were sure one had a pile of four and the other had a pile of five?
228 A. Yes, exactly.

Q. So as I said there was in that safe deposit box a separate pile of \$200?—A. Exactly.

Q. That brown envelope was the one that had the printed name of some Stock Exchange house on it, wasn't it?—A. Yes, sir.

Q. Now I want to go back more or less to the beginning here. Am I right that as far as the FBI men and Government agents were concerned, they first got wind of Mr. Cramer and his dealing, whatever they were, with Mr. Thiel on the evening of the 23rd, that is Tuesday?—A. I will say the first I got wind of, it was what the other men knew about it I do not know.

Q. But so far as you know, it was on that evening of Tuesday, the 23rd, that they first had any idea Mr. Cramer was having any dealings with any of these German agents?—A. That is the first night I saw him.

Q. You learned, of course, in that evening that you spoke with Mr. Cramer, that he had seen Mr. Thiel the day before, that is the 22nd, Monday?—A. Yes, sir.

Q. Cramer told you about that when you had him down in the building here in the FBI rooms. Didn't he?—A. Yes, sir.

Q. But as far as you know, his telling that to you and the
229 other agents in the FBI room was the first knowledge that the FBI had that there had been any meeting between Cramer and Thiel on Monday, the 22nd of June—as far as you knew?—A. That is the first knowledge I had, Mr. Medina.

Q. That is what I mean. A. I cannot tell what the other men in the FBI had knowledge of.

Q. Well, I realize that; but I say as far as you know today, the knowledge that you got at that interview with Cramer of his dealing with Thiel on Monday, June 22nd, was the first that the Government knew about that?—A. I have never heard anything to the contrary.

Q. Now isn't it a fact also, insofar as your information goes, that it was the men following Kerling on the evening of Tuesday, June 23rd, who went into the Twin Oaks and saw Cramer and noticed for the first time that Cramer was in any way mixed up in this matter—as far as you know?—A. Yes.

Q. Could you tell the jury just when Kerling was arrested? Do you know the exact time?—A. No, sir.

Q. As I recall the testimony on Tuesday, it was some time around perhaps half past ten on Tuesday evening? Would that be in accordance with your notion of it in general?—A. I do not know, sir.

Q. Do you know when it was that Thiel was taken into custody?—A. No, sir.

230 Q. My purpose in asking this is that I would like to have the jury understand when Kerling and Thiel were removed from the scene, so we know when there could not possibly have been any more dealings between Mr. Cramer and them, but you do not know as to that?—A. No, sir.

Q. Now as to those statements that were made on Saturday evening after you took Cramer into custody, as I understand your testimony, you talked with him for a while and he tried to make out that this fellow's name was Bill Thomas and things of that kind, but after a while he told what the fact was?—A. He told me Werner Thiel was, the man he named as Bill Thomas was really Werner Thiel.

Q. Yes. But now what I would like to have the jury understand is about how long it took before he said "Well, I will tell you the truth. His name really was Werner Thiel." Was that a matter of several hours or was it a short time?—A. I arrived at the office that night at 11:20, talked with Cramer, and I left at 12:45 a. m. on June 28, 1932. Cramer during that period of time was given something to eat and he was examined by a doctor; his biography was gone through specially, and it was sometime between 11:20 and 2 a. m. that the incidents I have recounted for Mr. Correa occurred.

Q. I do not think I made myself clear. I realize that it was from sometime after eleven up until two o'clock that the whole business took place, but what I would like to have the jury understand was how long it was after he made the first statement about this Bill Thomas that it took for him to

say, "Well, I will tell you really his name was Werner Thiel"?—

A. An hour to an hour and a half.

Q. About an hour to an hour and a half?—A. Yes.

Q. Then there was some further talking before you came to the point where Cramer said, "Now I would really like to see Mr. Ostholthoff alone here." Did that take much longer than an hour and a half?—A. No.

Q. In other words, it was pretty soon after he said, "Well his name really was Werner Thiel," that he said he wanted to see Mr. Ostholthoff alone; maybe a few minutes after that?—A. That is a fair statement.

Q. Didn't you get the impression when he said he wanted to see Mr. Ostholthoff alone that he felt that he wanted to make a full statement to Mr. Ostholthoff, but he did not want to have anyone else there, or something of that kind?—A. No. As a matter of fact I did not know why he would want to speak to Mr. Ostholthoff alone.

Q. It turned out that is what he had in mind?—A. Yes.

Q. That he wanted to make a full statement to Mr. Ostholthoff, and he felt if he was alone with him it would be easier for him to do it?—A. That is the way it turned out, but I did not know what he wanted to see him about at the time.

Q. But that is the way it turned out. Now during this period of talking there did Cramer act at all violent or abusive or anything of that kind?—A. No.

Q. As your experience goes, he was a pretty docile customer, wasn't he?—A. Cramer is phlegmatic.

Q. But as I say, he was a pretty docile customer; he did not make any fuss or any trouble, but you interviewed him and you finally got this statement he gave Mr. Ostholthoff?—A. Yes.

Q. There was one thing that you mentioned that I would like to have a little more explicit. I think you told the jury that his explanation for saying that Thiel's name was William Thomas was that Thiel was having some trouble with the draft board and that is why he wanted to conceal his identity?—A. That is right; that is why he took the alias of William Thomas.

Q. Now I want to bring out a little further detail. Isn't it a fact that Cramer said he had been informed by Thiel that Thiel had not registered for the draft, and that as a matter of fact some F. B. I. people had written to Cramer asking him for Thiel's whereabouts and that he, Cramer, had written in reply stating that he had gone back to Germany?—A. No, sir.

Q. When you say "no, sir," to that, do you mean to indicate that at no time during that evening did Cramer indicate to you the nature of this trouble with the draft board?—

A. Well, he did elaborate—

Q. Well, that is what I am trying to bring out.

Mr. CORREA. Let the witness answer, please. He started to say "He did elaborate" and you interrupted.

Mr. MEDINA. I did not mean to interrupt at all.

A. (Continuing.) He did elaborate by saying that the draft board was trying to ascertain the whereabouts of Werner Thiel.

Q. And did he not indicate to you that the trouble was that Thiel had not registered for the draft and that is what was making the trouble?—A. Yes.

234 Q. After you had testified for some little time Mr. Correa asked you the question as to whether you had told the jury substantially all of this interview, meaning the interview on the evening of the 27th of June with Cramer, and as I remember it you answered it in the affirmative. Is that your recollection?—A. Yes, sir.

Q. Have you told the jury all that you remember that Cramer said during that whole evening?—A. If you mean have I answered fully every question put to me, I say definitely yes.

Q. No; I do not mean that at all. I thought there was probably more to it, and I don't think for a minute you are holding any of this back on purpose, and you know that. But I want to be sure if you told the jury all that you remember that was said by Cramer during that evening.—A. Yes, I have.

Q. Have you told them all that you can remember?—A. All that I can remember sitting right here.

Q. Let me see if I can help you a little; I am not sure that there is anything further, but I just want to make sure. When he asked to be left alone with Mr. Ostholthoff of course you don't know what he said to Mr. Ostholthoff while you were out of the room, do you?—A. No, sir.

Q. And when you came back isn't it a fact that Cramer then made a statement to you and to Mr. Ostholthoff together?—A. He corrected his previous assertions.

235 Q. Well I wish you would tell the jury about that so they will get the full picture of it.—A. Well, he said the man he told us was William Thomas was in reality Werner Thiel, and that Werner Thiel was a friend of his whom he was protecting, and that Werner Thiel had given him \$3,500, \$3,600 which Cramer was keeping in the safe deposit box, and that it was not from the sale of securities, that the money in fact was not Cramer's but Thiel's.

Q. Did he say why he had made the mis-statements that he had made in the beginning?—A. Yes; he said he wanted to protect Werner Thiel.

Q. Was that statement that he made, as you have just told

us, put down in writing? Didnt you get him to write it out and sign it?—A. Not that night; no sir.

Q. Wasnt there some stenographer or other person taking down what he told you and Mr. Osthoff that evening?—A. No, sir.

Q. So that we can leave that with the assurance that you told the jury everything that you can remember about that interview, in substance?—A. Yes, sir.

Q. That is what I want to be sure of. Now there are one or two other things. You may remember that the day before yesterday when I was questioning some of the other agents I had
236 this little diagram Defendant's Exhibit B prepared to show the various articles of furniture in the room? You remember that, don't you?—A. I do.

Q. And how I went with those two agents over the various items to see what they examined and what they found. Now you may remember I went over and spoke to you about the citizenship papers.—A. I do.

Q. Because I had some recollection that those had been in some way concealed about the room. Now I wish you would tell the jury what the situation was as to those citizenship papers, that not having been touched upon by those two men the day before yesterday.—A. We wanted the citizenship papers, and I asked Cramer where they were and he told me where they could be found, namely under the—in the drawer of the desk on which the drafting board lays, under the paper covering that people usually put in bureau drawers.

Q. In other words he said—if I may push this table (indicating) out by way of illustration—that in that table that was used as a desk there was a drawer, and in the bottom of that drawer there was a piece of paper, and that under that piece of paper he had put his citizenship papers for safekeeping?—A. Yes.

Q. Now when the two men who testified here the day before yesterday made all the search that they did make of his
237 room, they did not at that time know anything about the citizenship papers, did they?—A. No, sir.

Q. And so when they got all through with their search and came back they did not have the citizenship papers with them, did they?—A. No, sir.

Q. And that is how it was that you took up with Cramer the question of where they were, and he told you they were under the paper. Now isnt it a fact that after that one of the men went back there and he left up that paper and found the citizenship papers and brought them down?—A. I don't know. All I know is that I had the citizenship papers that day in my hands.

Q. Without making it necessary to call the person who actually did that, it is your information that that is what happened; is that it?—A. Yes, sir.

Q. And I am willing to take that, that one of the agents did go up, he did look where Cramer told him to look under this piece of paper, and there were the citizenship papers and they were brought down to you. Is that right?—A. Yes, sir.

Q. Now a question or two as to these letters that have been put in evidence this morning and I shall be through. I suppose it has occurred to the jury to wonder where on earth these original letters in German with the envelopes addressed to people 238 in Germany—where they came from, how they happened to be available; and I think it would be a good thing if you would tell them just how that happened.—A. Cramer has a post office box in the office of a gentleman named H. B. Goldstein at 304 East 87 Street where he received his mail. On July 27th we got a call from Mr. Goldstein at the office informing us that there were two letters up there, air mail letters which had been returned to the post office box.

Q. In other words they were picked up by the censors and sent back to the United States, and as they came back they went to Cramer who was the man who had sent them?—A. I do not know whether they were picked up by the censors. The service had been suspended. The letters were mailed in New York in November and December, as I recall, and during the process of finding their way to the addressee the service was suspended because of the international situation.

Q. Yes; I notice on each of the envelopes the legend, apparently put on with a rubber stamp, "Returned to Sender—Service Suspended."—A. That is it.

Q. You think it was for that reason rather than that they were opened by the censor?

Mr. MEDINA. May I see the envelopes? I think probably that is right, but I would just like to—

239 Mr. CORREA. I think that is right; and I think it was read to the jury when the exhibits were read, if I recall correctly, counselor.

Mr. MEDINA. Well, no, I thought I had a recollection of seeing censorship stamp on them.

The WITNESS. You did, sir.

Mr. MEDINA. And apparently there is.

The WITNESS. Yes.

Q. You see there it is right on that envelope "Opened by Examiner 5-2-38 [indicating]"—A. That is it. I cannot say that it was returned by the censor.

Q. Well they both have on them—you see this one says "Opened by Examiner 5-2 38" the same as the other one. So that whether the censor sent them back or whether the post office did it because the service had been suspended, the fact remains that they were both opened by the censor and that they did come back and that they were not delivered to the addressee in Germany; is that right?—A. I will say that both contained censorship stamps, or censorship pasters, but whether they were opened by the censor or not I am sure I don't know.

Q. I suppose I don't, either, but they have every appearance of having been opened by the censor, don't they?—A. I will say that; yes.

Q. Now go right ahead and explain to the jury what happened after you got that call—from Mr. Goldstein was it?—A. Yes, sir. I went up to his office one of the days and got the letters, which I brought over to Anthony Cramer at the detention headquarters, and he opened them in my presence and read them and they were in German as you see, and I cannot read German. I said I would like to have them and he gave them to me. I brought them to the office and here they are.

Q. You got from Mr. Cramer in accordance with your custom in these matters written permission to take those letters out of the box and bring them down there and use them, didn't you?

A. Written permission from Mr. Cramer to take the letters out of the box?

Q. I thought that you did that.—A. No; they were given to me by Mr. Goldstein, the owner of the box.

Q. In any event you took them up with Cramer and in some way later he consented to your obtaining them and having the use of them?—A. He opened them, read them, and gave them to me.

Q. I ask you that because you know that under the provisions of the constitution about search and seizure you would have no right really to open those letters without his permission.

Mr. CORMA, Your Honor, I object to this form of interrogation. We have had a lot of it and I have not raised an objection heretofore, but counsel has made a short speech to the witness about why he asked a question, and purporting to set forth a statement of law. I do not think that is appropriate, and I do not know that there is any occasion for us to discuss the law of search and seizure now. I do not think there is and I do not think it is relevant.

The COURT. Did you have that in mind, Mr. Medina?

Mr. MEDINA. I definitely did, your Honor. I should have made some motion perhaps as to these things, but I understood from Mr. Willis that there was not any search and seizure problem

in the case because Cramer had consented to it, and I think I am entitled to bring that out.

By Mr. MEDINA:

Q. It is the fact, isn't it, Mr. Willis?—A. The fact is, as I stated to you, that the letters were given to me by Mr. Goldstein, brought by me to Cramer, opened by him, read by him, and given to me.

Q. Opened by him and given to you?—A. Yes.

Q. That is what I said. The only thing we might differ on is whether there was consent or was not.

Mr. CORREA. I object to that statement, if your Honor please. I do not think it is proper at this time.

Mr. MEDINA. I withdraw it.

Q. Did you later get a signed statement from Mr. Cramer?—

A. Concerning what, sir? Concerning those two letters?

Q. No; I mean a signed statement by him in which he related his dealings with these men and the whole story about this matter that we are now trying out here.—A. We got a signed statement concerning his version of the story.

Q. That is what I mean.—A. Yes.

Mr. MEDINA. I call for the production of that statement.

Mr. CORREA. I decline to produce it, if your Honor please, on the ground that it is a self-serving declaration save for a few admissions contained in it, and quite frankly, because I think I should be as frank as counsel has been, in view of the fact, as counsel has indicated, he proposes to call the defendant. I should prefer that the defendant not have the advantage of refreshing his recollection as to what story he gave the FBI before he repeats it here on the stand.

Mr. MEDINA. I most seriously urge my right to flat now, your Honor. I have made no engagement as to calling any particular witness. I have stated in my opening what I anticipate, which is correct, but surely I have made no guarantee or engagement on that. Furthermore I think in view of the testimony by this witness here I am entitled to bring out before the jury right now what Cramer's story was to the FBI, and what the writing was that he made. I do not think it is fair to have the jury sitting here waiting until a special and appropriate time to be told the rest of the story as to what he stated. I think that it should come out now.

The COURT. Isn't there something in Mr. Correa's objection that to show this statement now before the defendant takes the stand might refresh his recollection on what he said and enable him to—

Mr. MEDINA. I think he should have thought of that before he put this witness on the stand and brought to the jury's attention a partial statement of what Cramer had stated up to a certain point. If he desired to withhold the rest perhaps he should have withheld this witness.

Mr. CORREA. Counsel's remarks, if your Honor please, about putting in a partial statement and withholding the rest and so forth are just wrong. I have put the witness on to testify to a particular occasion and interview with Cramer. We have elicited from the witness everything that was said at that interview by the defendant Cramer, and counsel has explored it thoroughly on cross-examination. Now this is a new matter, another occasion, and for all I know Cramer may have given a dozen different statements. But they are not material here and they are not proper cross-examination. I have carefully restricted it to this single occasion, and I have done it. I am very frank to say that I would not offer in evidence here a statement I did not believe to be entirely complete and accurate.

Mr. MEDINA. I do not think that is a fair statement to make, your Honor. Why should Mr. Correa stigmatize this statement that he refuses to produce as accurate or inaccurate. I move that statement be stricken out.

Mr. CORREA. I thought counsel wanted to know why we did not offer it.

Mr. MEDINA. If your Honor please, I did not inquire as to why they refused to produce it. I demand it now as of right. I do not think it is within your Honor's discretion to refuse me that, in view of the testimony that has been given.

Mr. CORREA. I submit, your Honor, it is new matter, a new occasion, and it is not called for by the testimony.

The Court. Mr. Medina, I do not think that was gone into, the contents of this statement, by Mr. Correa.

I am not sure about it, but I have listened pretty carefully and I do not think it was.

Mr. CORREA. I will state on the record, your Honor, it was not.

Mr. MEDINA. I respectfully except to your Honor's ruling.

The Court. I am not trying to prevent you getting anything that you should have. When we get the testimony I will look it over, and if that is your right you will get it.

Mr. MEDINA. You see my point, your Honor, is that I am entitled to get it now. I say the subject has been opened; I say that it is not within the right of the Government to open a subject in part and then say "All I want is what was said by the defendant on this one occasion on this subject," and stop there. I say no, when they open that I am entitled for the enlightenment of the jury to show them everything the defendant said on the

subject so that they may not be in the meantime perhaps prejudiced to his disadvantage by the withholding of the rest of the story until a later time, when it may be too late to eradicate some impression from the mind of the juror or of all of the jurors.

246 Mr. CORMA. I submit, if your Honor please, what is sought here is by this attempt to get into evidence self-serving declarations which are hearsay statements as to this case, and on which the Government cannot cross-examine, obviously. I point out further that all the testimony of this witness elicited by the Government has certainly been confined to a single occasion, and as well we have confined our testimony to oral conversations had with the defendant Cramer, not reduced to writing. We have also made no objection to the cross-examination, which has gone considerably beyond the direct examination in many respects, and I made no objection because I have no wish to delay the proceedings by that kind of objection. I do feel that here there is a substantial point, and I think the jury is entitled to have such statement withheld until it can be brought forth at the proper time under circumstances when its truth will also be subject to some check.

Mr. MEDINA. I have this to add, your Honor. Apparently there may be involved some question of good faith here. The suggestion is put forth that perhaps my demand for this paper and my seeking to have it before the jury now may be an indirect attempt to help the defendant with his testimony. I say to your Honor with all the sincerity of which I am capable that I did not make the demand for any such ulterior purpose as that.

247 Mr. CORMA. If your Honor please, so far as counsel's last remarks are concerned, of course there is no question of counsel's good faith. Counsel stands in the same position in this court as any other lawyer representing a defendant. The argument is addressed, as your Honor I am sure realizes, to what I regard as a perfectly sound trial procedure.

The COURT. Mr. Medina, the application is denied at the present time.

Mr. MEDINA. Defendant respectfully excepts.

The COURT. It may be appropriate later, and if so renew your application.

Mr. MEDINA. And in doing so I take it I may not be deemed to have waived the position that I have taken here this morning?

The COURT. That is correct, Mr. Medina.

By Mr. MEDINA:

Q. Mr. Willis, after the evening of Saturday, June 27th, did

you again either alone or with other Government agents interview Cramer?—A. Yes, sir.

Q. When was the next interview?—A. Starting 11 a. m. Sunday, June 28th.

Q. Was it on that occasion that the writing which I have requested was obtained from him?—A. Yes, sir.

Q. Before the writing was prepared did he make a statement orally?—A. Yes, sir.

Q. And then the paper was prepared for the purpose of perpetuating in definite and definitive form what he had stated to you and others orally?—A. Yes, sir.

Q. Who else was there besides you—Mr. Ostholthoff?—A. No sir; agent MacInnes.

Q. So that the oral statement to which I now refer was made to you and MacInnes?—A. The written statement.

Q. No; I am referring to the oral statement that was made first. That was made to you and Mr. MacInnes?—A. Of June 28th, is that the one you refer to, sir?

Q. At 11 o'clock in the morning June 28th, a Sunday.—A. Made to MacInnes and I.

Q. What was said by Cramer at that time?—A. He gave his autobiography, his comings and goings to the United States—

Q. I wish you would just tell the jury the whole story. Please don't condense it or characterize it, but give us exactly what he said if you remember.

Mr. CORREY. If your Honor please, I object to this question. I object to the question on the ground, if your Honor please, that this is new matter and not gone into on the direct examination. This interview was not gone into and my reason is essentially the same reason I have heretofore urged in connection with 248 a the written statement.

The COURT. This was an oral statement.

Mr. CORREY. It was, if your Honor please.

The COURT. I think we will follow the same procedure.

249 Mr. CORREY. Well, if your Honor please, this is not an oral statement which was referred to, or elicited by the Government in its direct examination. On the other hand, it is an oral statement which we carefully did not elicit for the same reasons which I mentioned in connection with the written statement. Now it seems to me that the effect of this line, should it be permitted, is merely to permit the defendant to do by indirection what your Honor has expressed as a ruling may not be done directly, and it is for that reason that I object.

The COURT. I think Mr. Medina is right about this. This is an oral statement made. It is not the same one perhaps which

you inquired about, but I think that this witness has described one oral conversation and that counsel for the defendant has a right to inquire about another.

Mr. CORREA. On a different occasion?

The COURT. Yes.

Mr. CORREA. If your Honor please, I call your attention to this one final point in connection with it: the witness had started his answer before I interposed my objection. He said that Cramer started with an autobiography, and counsel indicated he wanted to have that autobiography given. It seems to me those statements, as well as the other statements are details which will be elicited with respect to this examination are self-serving declarations; in other words, they are self-serving declarations which are not part of any admissions elicited by the Government, and therefore it seems to me wholly inadmissible. I have no objection to proof at the proper time and in the proper manner, but I think there are real safeguards as to the truth which are lost if the evidence is not introduced in a proper way, and I press the objection on that ground.

The COURT. I think he may go into that.

Q. Go right ahead and tell us the whole story he related in just as exact words as you can give it to us. A. He started with his birth in 1900 in Ollendorf, Germany, and his boyhood on the farm and his lineage, his parents, his brothers and sisters and his short period of service—

Q. What did he say about his brothers and sisters?—A. He gave us the names and their present occupation and their age—

Q. I do not like to seem to interrupt you, Mr. Willis, but it does seem as though you could tell the jury just what he told you. You see, you are characterizing it.

The COURT. Can you remember it?

The WITNESS. For the life of me, I cannot remember Mr. Cramer's brothers and sisters.

Q. Then it is because you do not have the names. That is all right. I think though you were just sort of summarizing it.—A. I will have to summarize, Mr. Medina, because Cramer's boyhood, although given to me in detail, I have not refreshed my recollection on.

Q. I make no objection to that, Mr. Willis, insofar as you do not remember; you may summarize it, but give us all that you do remember.—A. You insist on my beginning at the beginning of the oral statement he gave to me which was later reduced to writing, is that it, Mr. Medina? Or do you care to come to the path of the argument?

Q. Well, I am exceedingly anxious to avoid any controversy

about it and to have the jury listen to what the man told you. You tell it in your own way and I will come in afterwards if there is anything about it I think ought to be supplemented.—

A. He served a short period in the German army and was discharged after the Armistice and subsequently came to the United States, in 1925 I believe, where he secured employment in the middle West, working in hospitals as attendant, and working on a farm, and he took a trip, in 1936, I believe, back to Germany, and while in Germany he visited the Olympic games in Berlin and saw his family. He returned that year and has been in the United States since then. In 1936 he became a naturalized citizen. He continued working in the middle West, and prior to that, in 1929, in Detroit, he met Werner Thiel, and they finally moved together to New York City.

252 Q. In 1937 Cramer went to Miami, Florida, and went into business with a Hubert Thielmann, as a partner in a delicatessen store, but the business venture failed and he returned to New York on May 1st, 1937, I believe, and continued his employment in New York.

In March of 1941 Thiel left New York City for the West Coast en route to Germany, and Cramer knew at that time that Thiel was a member of the National Socialist Party.

Then Cramer next heard from him on June 22, 1942, when a note was shoved under his door for him to go to the Grand Central terminal at 8 p. m. that night to meet Franz from Chicago, and Cramer went there, as he said, out of curiosity, and met Werner Thiel.

On June 23rd he met him again —

Q. Didn't he tell you some more about what happened on the evening of the 22nd?—A. They went up to the Twin Oaks and he said they talked about general topics; he asked about Norma; he asked about friends of his. Werner asked him how the war was going and what was the war spirit here. Cramer cannot remember the exact topics of conversation but he characterizes them as general conversation.

Q. Did he say anything about anything that he or Thiel said about how Thiel got over here?—A. Not on the 22nd. On the 23rd he met with Thiel again and, as already in the record, 253 the money phase of this case was brought out; Thiel gave him the \$3,500 and Cramer said he asked Thiel if Thiel had come over on a submarine, and—

Q. Now this is Cramer telling you this himself, isn't it?—A. Yes. (Continuing.) And Thiel smiled and put him off and said "I will tell you later." And then we asked Cramer why he should put such a question to Thiel and Cramer said "That is a logical question because steamship service has been suspended and there

would be no other way for Thiel to get over from Germany to the United States except by submarine," and he also said that Thiel mentioned Jacksonville, Florida, and Cramer said it was either that Thiel had landed at Jacksonville or he had come through Jacksonville, he could not remember which.

Q. Now you do not mean to tell this jury, do you, that Cramer told you that Thiel told him that he had come by submarine and landed at Jacksonville? If any such impression might have obtained, you did not mean to say that?—A. That is right. I do not believe I did say it, Mr. Medina.

Mr. COEREA. I object to counsel's statement to the witness because I don't think the witness has said that.

The COURT. I don't think he did.

Mr. MEDINA. It is my misunderstanding, but I merely wanted to have it clear.

254 A. (Continuing.) Cramer said that he asked Thiel if

Thiel had come over on a submarine and Thiel smiled and said "I will tell you later." Cramer said he had a hunch that is the way he came over when he saw Thiel smile, but he never admitted to me that Thiel told him he had come over in a submarine.

Q. In fact he denied at all times that he was told any such thing by Thiel?—A. He said all he ever had was a hunch Thiel came over and that hunch was substantiated in his mind when he saw Thiel smile, when he would say "Did you come over by submarine?" and Thiel would smile and say "Don't ask me that.

I will tell you later," and Cramer said that hunch of his was substantiated when he saw Thiel's smile.

Q. Go right on and tell us the rest.—A. Thiel asked him if he had seen Norma, and he asked as to her state of health and Cramer said that she was still in town or in the vicinity at least and Thiel said he would like to see her, and Cramer said he would arrange it, and as has been developed, he did arrange for Norma to come to New York City.

Q. Did he tell you why Thiel said he wanted to see Norma?—

A. Yes; he would like to see her again, and Norma was Werner's girl friend before he left.

255 Q. And that is what he wanted to see her for?—A. Yes.

Then Cramer said that he would never have turned Werner Thiel in because Werner Thiel is his friend and he could never face the world again if he felt that through him a friend had come to grief, but he did say that if he had thought Thiel was over here for some more sinister purpose—I will go back, Mr. Medina. Cramer's hunch why Thiel was here, as given to us, was the fact that Cramer believed Thiel to be here to spread stories and circulate rumors to create unrest, he said if that was so he would never have turned Thiel in because Thiel was

his friend, but he said if Thiel was here for a more sinister purpose, such as sabotage and resultant death to American citizens, he would have turned him in, motivated as much by a desire to protect Thiel as to protect the innocent ones who would be harmed and the damage which would be caused by such violent acts.

Q. Go right ahead and tell us anything that remains.—A. That is about the substance of the statement, Mr. Medina.

Q. And that is what, in substance, he told you and Mr. MacInnes, on that morning of Sunday, June 28th?—A. Yes, sir.

Q. Did you interview him on additional occasions after that?—A. Yes; I did.

Q. Did he change that statement in any way?—A. He elaborated on it.

256 Q. And to what extent did he elaborate on it?—A. I asked him if Thiel had told Cramer how he got from the submarine to the shore and he said that he asked Thiel if Thiel had gotten on a rubber boat from a submarine to be taken into shore, and I said "Why did you ask such a question?" He said "Because that is the logical means of conveyance between a submarine which certainly cannot come onto the dry beach and the shore, but he said that Thiel smiled again and he said "I will tell you later maybe," but he said Thiel never did tell him whether he got from the submarine to the shore by way of a rubber boat.

Q. Were not there some further elaborations?—A. Yes; he elaborated on the reason for protecting Thiel. He elaborated to the extent that he wanted to protect Thiel from the Selective Service violation, his original reason being that he wanted to protect Thiel as a friend. Cramer has always asked me about the status of the \$200 which Thiel told him he could keep. He has always elaborated on that to me, too.

Q. I do not understand what you mean by "elaborate." I wish you would explain to the jury what he told you about that.—

A. Yes, sir; when Thiel gave him the \$3500 or \$3670 to be exact, Thiel told him he could keep \$200 of it, and Cramer said that that money is his, rightfully his, and each time I saw Cramer 257 he would explain in detail his theory on why that money belongs to him, and asked me about its safekeeping.

Q. Well, didn't he tell you that Thiel owed him that \$200?—A. Yes; exactly.

Q. And as I understand what you are saying here is that he got worried about that, and he asked you every time he saw you whether it was not all right for him to keep the \$200?—A. No. He would ask me about—he would explain to me the existence of the beans accumulated over a period of years, and he would tell me that his theory of it was that that \$200 was rightfully his.

Q. But didn't he say that Thiel told him to take the \$200 because he owed it to him?—A. Yes.

Q. That is what you said before.—A. That is exactly what I have said.

Q. And so, as I gather, he had some record there that was in your possession, showing the amounts loaned to Thiel, didn't he?—A. He identified records.

Q. He had a little book?—A. Yes.

Q. And you spoke to him with that book right in your hand, didn't you?—A. Yes.

Q. And isn't it a fact that he seemed concerned over the \$200 because he did not want to have it taken away from him?—A. Yes.

Q. What did you tell him about that?—A. I told him as far as the \$200 was concerned, I was in no position to say whether he could or could not have it, and there the matter rested.

Q. Isn't it a fact during all these times that you had these conversations with Cramer that he did not show the slightest idea of knowing what a jam he was in? Isn't that the real truth of it?—A. Outward manifestations of nervousness, do you mean?

Q. No; I mean in his talking to you. You say he was worried about his \$200?—A. He was.

Q. And you have told about these conversations. Now isn't the real basic fact that he did not indicate any idea at all that he was in this kind of jam?

Mr. CORMA. I object to the form of the question, if your Honor please.

The COURT. Sustained.

Mr. MEDINA. Exception.

Q. Have you told us all that you can remember about that interview on the morning of Sunday the 28th of June?—A. Yes, sir.

Q. Was there anything else said about submarines at all?—A. No.

Q. In any event, whether there was some further detail or not, the substance of what he then told you about Thiel and the submarine was that from his questions and from the smiles or the responses of Thiel he suspected that Thiel had come over by submarine, but Thiel had never told him that?—A. That is right, and he also suspected something further; he suspected that the money which Thiel gave him was connected in some way with his appearance in the United States which Thiel had never explained to him—according to Cramer. He first said in the early statement that he thought he had gotten the money from the

German government but that he could not have any basis for this information inasmuch as Thiel had never told him where he had got the money, so he rejected that thought.

Q. Now speaking about these thoughts and suspicions, I suppose there were many occasions when you kept pressing him and saying "What did you think the man was here for? Where did you think he got the money? How did you think he got here?" and all this sort of thing—were not those questions put to him repeatedly?—A. Oh, yes; we asked him for that.

Q. And in response to those questions you got the answers that you told the jury here?—A. That is right.

Q. That this was logical, or he thought maybe this was so or that was so, but that Thiel had never told him so?—A. But we never broached the subject about the submarine or the rubber boat.

The only questions we asked him on this submarine business 260 was, "Why did you ask Thiel that?" and he was the one who said "That is a logical question." I did not ask him whether Thiel had told him he came over on a submarine. He said he asked Thiel if Thiel came over on a submarine, and Thiel smiled and put him off.

Q. I think perhaps we do not entirely understand one another. Let me realize that you told the jury that Cramer said to you that in his talking to Thiel he asked him—A. Yes.

Q. (Continuing.) Whether he came over by submarine or not, and that Thiel gave him an evasive answer on it. Now referring, however, to these suspicions that maybe the money came from the German government to him, and maybe this and maybe that, were not those speculations all in response to repeated questions by you and the other agents to the effect, "What did you suppose he was here for? Where did you suppose he got the money?" and things of that kind? Isn't that so?—A. Yes. I recollect that is the substance of it.

MR. MEDINA. If your Honor please, I have a number of notes here that I would like to examine and I notice it is almost one o'clock. I wonder if we could not adjourn now as I will have some further questions I would like to put to Mr. Willis.

THE COURT. I should think so. We will adjourn until two o'clock.

(Recess until 2:00 p. m.)

JOHN G. WILLIS resumed the stand.

Cross-examination resumed by MR. MEDINA:

MR. CORREA. If your Honor please, in the light of your Honor's ruling concerning this interview of June 28th in the afternoon, it

is our feeling that there is no longer any point to our withholding or declining to let counsel have the statement. We are not offering it in evidence or anything of that character, but there is no longer any point to our objecting to that.

Mr. MEDINA. Do I understand that the statement is now made available to me?

Mr. CORREA. It is right there, sir [indicating].

Mr. MEDINA. I offer it in evidence.

Mr. CORREA. I object to it, if your Honor please, on the ground it is a self-serving declaration and should not be admitted at this time. I have no objection to it in proper order, but I feel this is not the order or time, for the reasons I have expressed heretofore and need not repeat.

The Court. I should think that was a self-serving declaration.

Mr. MEDINA. I except to your Honor's ruling, and I shall proceed along the lines that I was taking this morning, and perhaps I may reoffer it a little later on.

Mr. CORREA. I think it should be marked for identification.

(Marked "Defendant's Exhibit C" for identification.)

By Mr. MEDINA:

Q. Had you told us this morning all that you recalled of the statement made orally to you and Mr. Mackines by Cramer on the morning of Sunday, June 28th?—A. Yes, sir.

Q. Let me see if I can refresh your recollection as to some things that perhaps you may not have told us all that you may remember. Did he say, that is Cramer say, anything to you on that occasion about his conversations with Norma Kopf?—A. Yes, sir; he said that he told her that Werner Thiel was in town and wanted to see her, and that Norma would not believe it, and he said "Well later you will see I am telling the truth."

Q. Is that all that you can recall that he said about Norma?—A. Yes, sir.

Q. Didn't he tell you anything about what he told Norma Thiel had asked him about her?—A. Will you repeat that, sir?

Q. I will reframe the question. Did Cramer on this Sunday morning tell you what he had told Norma about the questions Thiel had asked about her?

Mr. CORREA. If your Honor please, I think I shall have to object again, because I point out that again he has entered the self-serving material and we have had no evidence up to date as to Cramer's conversations about Norma Kopf, and no testimony as to any admissions by Cramer concerning his conversations with Norma Kopf. To permit the subject to be introduced in this way is simply to invite unsworn self-serving declarations, and I do object to that. We made no objection where the

conversations and transactions were involved about Cramer's dealings with Thiel, but this is a whole new subject, not once having been mentioned heretofore.

MR. MEDINA. Your Honor has ruled this morning that I might bring out what was said by Cramer to the witness. I am thus, I think, entitled to bring out everything that he said.

THE COURT. I think that applies to a subject that was gone into by the Government, but not to new matter.

MR. MEDINA. It is my belief that when your Honor ruled that the conversation was admissible, I was entitled to bring before the jury all that he said on that occasion. There is no way of our knowing in advance what it will be or what bearing it will have.

THE COURT. I ruled that you were not entitled
264 at this time to go into that new subject, merely because it was part of a conversation.

MR. MEDINA. I respectfully except.

By MR. MEDINA:

Q. Do you recall whether or not anything was said in that conversation by Cramer about Kerling?—A. Yes, there was.

Q. What did he say?—A. He said that on the night of June 23d there this other man sitting at the Twin Oaks Inn was a person named "Eddie" that he met two years ago at a gentlemen's ball at Jaeger's, which is in Yorkville.

Q. Go ahead and tell us all that you remember about it.—A. He said that he expressed the same amazement at seeing Eddie as he did when he saw Werner, for the same reason, that he knew Eddie had gone back to Germany; but that Eddie did not take him into his confidence as to how he got here or why he was here.

Q. Have you told us all that you can recall that Cramer told you that morning about Kerling?—A. Yes, sir.

Q. He did tell you when he first met Kerling, did he?—A. Yes.

Q. That was a couple of years before the conversation took place with you?—A. Yes, sir.

Q. Did he tell you whether he knew Kerling well or whether he had not seen him since that occasion two years before?—A. He said he did not know Kerling well, in fact he did not recall the man's last name; all he knew him by was the name "Eddie."

Q. Except for what Cramer said about Norma Kopf, which your Honor has ruled out, have you told the jury all that you recall that Cramer said to you on this Sunday morning?—A. Yes, sir.

Q. I notice, taking the indictment and referring to your testimony this morning, that when you first spoke with Cramer he told

you that Thiel's name was Bill Thomas. Do you remember that?—A. Yes.

Q. Later and either Saturday night the 27th or Sunday morning the 28th he told you that Thiel's name was Thiel, did he not?—

A. We asked him wasn't it a fact that Bill Thomas was really Werner Thiel, and he said yes.

Q. But I say either Saturday evening or that Sunday morning he admitted to you that that was wrong, about the name Bill Thomas, and that the man's real name was Werner Thiel?—

A. Yes.

266 Q. Now you mentioned that in the beginning he told you that from March 1941 until June 1942, Werner Thiel had been working in a factory on the West Coast of the United States, do you remember that?—A. Yes.

Q. In that same conversation that evening, or at the latest the following morning, he admitted to you that that was not so; didn't he?—A. He admitted that Thiel had left the United States in March of 1941.

Q. That is what I say.—A. Yes.

Q. And that, of course, is different from saying that he had not left the United States.—A. That is right.

Q. The third statement here, and one that I think you testified that Cramer made to you, was that Thiel had not been out of the United States; and as you have just told the jury, on Saturday evening or the following morning he admitted that Thiel had been out of the United States?—A. Yes, sir.

Q. The next one refers to this statement that the money belt given him by Werner Thiel had contained only a couple of hundred dollars that Thiel had owed him. That is what he said at first, wasn't it?—A. Yes, sir.

Q. And then later that same evening, or at the very latest the following morning, he admitted to you that it contained more than the \$200 and that it was money he got from Thiel, didn't he?—A. Yes, sir.

267 Q. The final one here has to do with this \$3,500 in the safe deposit box that you said he said in the beginning belonged to him, but later that evening or the following morning at the latest he admitted it did not belong to him but that he got it from Thiel and it belonged to Thiel?—A. That is right; yes, sir.

Q. Did you after this oral statement was made to you and to MacInnes, have written out exactly in a written statement what Cramer told you?—A. Yes.

Q. And the oral statement was then incorporated exactly, word for word, as it was you could make it with the oral statement?

A. Yes, sir.

Mr. MEDINA. I reoffer the written statement, your Honor, and believe that I have laid a sufficient foundation for it; namely, Defendant's Exhibit C for identification.

Mr. CORREA. The same objection, if your Honor please.

The COURT. I think really it is a self-serving declaration.

Mr. CORREA. Yes; and that at this time it is not admissible, although the Government takes the position that it may become admissible at the proper time.

Mr. MEDINA. If your Honor please, we are allowed to
268 have the witness give his oral recollection of what was said.

I think the writing, which must be the most accurate statement, should be admissible if we are allowed to put the oral recollection of the witness before the jury, and on what theory can we be prevented from giving the more accurate, permanent record of it in an exhibit?

The COURT. There is one reason. The statement itself is not admissible because it is a self-serving declaration and I have ruled that the conversation may be admitted because the Government offered the conversation on certain subjects only, and on those subjects you have inquired of this witness, but that does not permit the written statement to be put in evidence.

Mr. MEDINA. I am in doubt of your Honor's ruling, and it seems, perhaps, in the way in which you have couched your ruling that you believe this written statement would be admissible if the references to Norma Kopf were omitted from the consideration of the jury. Did your Honor so intend?

The COURT. No, I did not intend to give you that impression.

Mr. MEDINA. So your ruling goes to the statement as a whole?

The COURT. Yes, sir.

Mr. MEDINA. I respectfully except.

269 **Q.** Mr. Wallis, I place before you Defendant's Exhibit C for identification, and in view of your statement that you have exhausted your recollection as to the oral conversation, I ask you now to read the paper for the purpose of refreshing your recollection, and then I shall ask you a question or two more when you have finished?—A. You request that I read it to myself?

Q. Yes.

Mr. MEDINA. Perhaps, your Honor, you will make the same ruling after the witness has read the paper and we might save a little time. My purpose is, after he has read over the paper, to ask him to state his recollection, as refreshed, which I am frank to say will bring in inevitably the same thing that perhaps your Honor intends to rule out, and if your Honor tells me in advance that you will rule that out, I will merely note my exception and desist from questioning the witness further on the subject.

The COURT. I should think the witness could refresh his recollection.

M. CORREA. Judge, I have not made any objection. I don't know the purpose of this rather gratuitous statement. There has been no objection made as yet and I shall make no objection.

270 Mr. MEDINA. It is going to come out the same way because I am going to follow right down and get it all in.

The COURT. I have ruled that the witness has a right to refresh his recollection.

Q. Now, Mr. Willis, take that first page, so we can take this up carefully and seriatim. Is there anything on the first page that refreshes your recollection as to anything stated by Cramer on that occasion that you have failed to tell the jury about?

A. No; the first page deals with his boyhood in Ollendorf and his family.

Q. And there is nothing there of any consequence that I need stop about now. How about the second page? Is there something on there that refers to a matter that was stated by Cramer on this occasion that you have failed to tell the jury about?

A. Yes. When he went in the delicatessen business in Florida, I said he went down there together with Hubert Thielmann to go into business. As a matter of fact he went with Werner Thiel and the three of them were in business; it was not just Cramer and Thielmann, but it was Cramer, Thiel, and Thielmann.

Q. He told you that he and Thiel, and Thielmann all went into this delicatessen business together, and then that the business failed, as you explained to the jury this morning. Is there anything else on that second page that you omitted to mention?

A. No.

271 Q. Anything on there about Norma?—A. No.

Q. How about the third page?—A. The thing I omitted here was to say that Cramer received a card from Thiel in Tokyo when he went over to the west coast (and to Japan en route to Germany).

Q. That was one of the cards that was marked for identification here.—A. Yes, sir.

Q. That was Tuesday, and that was found up in the room by one of the witnesses who testified Tuesday, wasn't it?—A. Yes, sir.

Q. Anything else on that third page?—A. He also received a letter from Thiel in Berlin in which Thiel asked him how his girl friend Norma was. I did not mention that.

Q. Thiel referred to Norma as his girl friend?—A. Cramer referred to Norma as Thiel's girl friend.

Q. Was that postal one of the ones found in the room up there?—A. That letter was never found.

Q. Anything else on that page? A. Yes; that Thiel told Cramer that he came from the coast of Florida—and that is the part I left out. I did state that Cramer said he mentioned Jacksonville; it was either that he came from Jacksonville or came through Jacksonville.

Q. Yes; but as you explained to the jury this morning, Cramer did not tell you that Thiel told him that he got off a submarine at Jacksonville?—A. That is right.

Q. He took the position at all times that he at most had a suspicion that Thiel had come by submarine. Is that correct, Mr. Willis?—A. I am sorry.

Q. (Question read).—A. Yes; that Thiel had told him that he would tell him later maybe.

Q. By the way, when he referred to telling him later, did Cramer say that Thiel had said he would tell him and Norma together later over a glass of wine or something like that?—A. No.

Q. He did not use those exact words?—A. No. He said, "I will tell you later."

Q. What page are you on? Still on number three?—A. I have finished three. There is nothing more.

Q. All right. Then go to number four. A. I did not mention that Cramer thought that whatever Thiel's mission was here, Cramer believed that Thiel was serious in his undertaking.

Q. I do not believe I understand that. It would help if you could read us just the way it is phrased there but I do not want to do it if it is objected to.—A. "My hunch that he was here to spread stories and circulate rumors may have been wrong, but whatever his mission was, I thought that he was serious in his undertaking."

Q. Is that the end of the writing on that page?—A. No, sir. "I believed at that time anything that he might undertake would be ineffectual or useless. I told him so at that time. However, I did not advise him not to carry out his plans because I did not know the nature of them."

Q. Did you start reading in the middle of the page there?

A. I started in the first paragraph.

Q. Well, I will come back to that later. That is the fourth page?—A. Yes.

Q. Is there anything else on the fourth page that refreshes your recollection as to something you may have omitted this morning?—A. Thiel's membership in the Friends of New Germany, 1934 to 1935, which he left "because I did not like their marching and radical activities."

Q. I thought you used the word "Thiel" there inadvertently?—

A. I am sorry. This is Cramer.

Q. In other words, Cramer, in that statement he orally made to you, said he had belonged to that Friends of New Germany out in Indiana in 1934 and 1935, but left the organization because he did not like something or other. — A. "Their marching and radical practices."

Q. Anything else on that page? — A. That the night of June 23, 1942, they made an appointment to meet at the bar in 44th Street; that is the Twin Oaks Inn, at 8 p. m. No. When he left him on June 22nd they made an appointment to meet at 8 p. m. at the Twin Oaks Inn on June 23, 1942. I did not mention that.

Q. I thought you did, but anyway your recollection is refreshed as to that. Anything else? — A. That Kerling told Cramer that he and Thiel had come over to the United States together. I am on page 5 now.

Q. I take it what you are doing now is reading over the page and when you come to something that you have forgotten to mention before you are reading it to us? — A. Yes. Cramer also had a hunch that Eddie was here for the same reason that Thiel was, but I did not ask him inasmuch as the previous two times I had asked Thiel why he was here he had put me off with a quip.

Q. I suppose quotation marks out to go around that answer, Mr. Willis? — A. Yes; beginning with "but I did not ask him."

Q. Yes; all that you said was quoted directly from the writing? — A. Yes. It elaborates on the loan, the debt he referred to, the debt between Cramer and Thiel.

Q. Read it to us. — A. "The debt he referred to was a loan of \$125 I had made Thiel in 1924 in Hammond, Indiana. Later on in New York I also loaned him more money and we figured that it averaged about \$200." He said he thought Thiel might have gotten the money from the German government, "but I rejected that thought because Thiel was inconsequential insofar as violent acts and deeds injurious to persons and property are concerned." They made an appointment to meet each other at Thompson's cafeteria at 8 p. m. on Thursday, June 25, 1942. Thiel wanted to meet him on the 24th but Cramer said he had work that night so they could not make it, so they made an appointment on the 25th. I failed to mention that.

Q. Anything more on that page that you just turned? — A. No.

Q. Nothing at all about Normar on there? — A. No, sir; nothing. I haven't brought out.

Q. That is what I meant. — A. Yes. The \$10 that he put in the bank on the 25th was taken from the original sum given to Cramer by Thiel. On June 25th Cramer made a \$50 deposit consisting of

\$10 in cash and \$10 check from Hubert Thielmann, and that \$10 was part of the \$200 that Thiel told Cramer he could have.

Q. That is, that is what Cramer told you and what appears in the statement?—A. And which I am reading now.

Q. Yes. Nothing about Norma on that page that you have just turned?—A. Nothing I have not brought out.

Q. You know we got to a point there where I asked you about refreshing your recollection about Norma, and you started to testify and objection was made, and the Court ruled it out. You are not imagining that you did answer that, are you?—B. 276—cause there was something that you were going to say—

A. It has been brought out previously, sir, in the introduction of the note left at the Commodore, that Norma would be with him that afternoon.

Q. Yes; that is not what I referred to. But you finish up and then I will come to it.—A. Here it is.

Q. You have found the part about Norma now?—A. "That afternoon Norma and I proceeded to Thompson's cafeteria arriving there about 4 p. m. and leaving about 4.15 p. m."

Mr. CORREA. Just a moment. This I do not object to; Judge, I think we are coming again into not a conversation between Thiel and Cramer, which as your Honor will note I have not objected to because I went into that subject myself. But I do object to conversations between Norma Kopf and Cramer. The Government will call Norma Kopf and will have the conversations directly, and I submit that is the way to have them and not through self-serving and hearsay statements, and not of this nature.

I therefore object to any testimony from this witness as to what Cramer told him concerning Cramer's conversations with Norma Kopf. I do not object to conversations of Cramer with Thiel or 277 conversations with Kerling, or conversations with either Thiel or Kerling about Norma, but I do object to this because Norma Kopf will be here and testify directly to her conversations with Cramer.

Mr. MEDINA. I thought your Honor ruled a moment ago where the references were to Norma Kopf the witness might refer to them and give that to the jury in its entirety.

The Court. That was not the impression I intended to give you. A letter or statement signed by the defendant is in the nature of a favorable statement as a rule, and that is not admissible unless the door is opened to it. The door has not been opened to that statement.

Mr. MEDINA. That is where perhaps we have our difference. I claim that they did open the door when they asked Mr. Willis

to testify about this conversation. I claim we have got to have it all together before the jury at once.

The Court. Let me make it a little clearer if I may. The Government went into certain conversations but did not go into the conversation that you are now inquiring about as I recall it.

Mr. MEDINA. But this is one entire conversation. It is not a series of conversations, it is one. I claim it is all admissible if part of it is.

278 Mr. CORREA. Your Honor, first we never went into this conversation and counsel is in error there—referring to the conversation between the witness and Cramer. Secondly we did not go into any discussion had between this witness and Cramer on the subject of Cramer's conversations with Kopf. We asked no question about that, and I submit that that is a subject on which the Government will produce competent and direct proof. The jury may learn from Norma Kopf herself, who will come here and testify directly to what Cramer said to her.

Mr. MEDINA. I was just telling Mr. Minton I only have two ears and can only listen a little bit with each one. I am doing my best.

In the first place I have already indicated to your Honor that we think the whole conversation is admissible. I have this additional comment, that Mr. Minton has drawn to my attention. He has been making his notes here on the direct examination and cross examination of the witnesses, and he has a note here that he shows me, that indicates that Mr. Willis on his direct examination definitely did go into the conversations about Norma. And here it is, if your Honor wants to look at Mr. Minton's notes; they are right here. He did not imagine it.

279 Mr. CORREA. Your Honor, I think counsel misconceives our objection. In fact I am certain he does. We have no objection to conversations that Cramer had with Thiel concerning Norma Kopf. But we do object to conversations which Cramer had allegedly had with Norma Kopf herself. There has been admitted conversations that Cramer had with Thiel about Norma Kopf, in the sense that Thiel asked Cramer to bring Kopf down to see him. We have no objection to that, but we do object to an attempt to put in other self-serving and hearsay unsworn statements, what is in effect Cramer's version of his conversation with Kopf, because that will be testified to directly.

Mr. MEDINA. I would like to just add this, your Honor. If this Kopf woman is going to come and testify very shortly, what earthly harm can it do the Government to have this whole statement come in as it is? Nobody is fooled about it. They know perfectly well it is Cramer's version given to these FBI men.

If they are going to have this Norma Kopf called and she is going to testify, everybody will understand that. As it is in this gobbled way it is gotten in, a little here and a little there, and the jury is given that gobbled statement. I think they ought to have that statement now and have it read to them now just as it is.

Mr. CORREA. We might just as well, your Honor, put in 280 the defendant's letters to his attorney in a criminal case. I mean I think the whole basis of that is absurd. I think the jury is entitled to have statements before them that are tested and under oath and the reliability of which is vouched for by someone, and not hearsay and self-serving statements, unless the hearsay statements are in the nature of admissions, which we contend many of these are not.

Mr. MEDINA. Of course your Honor remembers that the indictment here charges as one of the overt acts this very conversation with this witness Willis. That is one of the things they charge, things that he said there.

Mr. CORREA. If your Honor please, that just is not so. We do not charge this conversation. This conversation is the conversation that took place on the 28th of June in the afternoon. We charge the conversation that the defendant Cramer had with Willis and Ostholthoff, both of whom are named in the indictment, at 11:30 in the evening of the 27th until 2 a. m. in the morning of June 28th, and we charge just that.

Mr. MEDINA. That is right.

Mr. CORREA. And that conversation the witness has testified about fully. The conversation at which this statement was discussed and the statement prepared was a different subsequent conversation, and I do not feel it is ever admissible but your Honor ruled against us on that and we have no strong objections. But I think we are now just getting deeper into self-serving statements of one kind and another the door to which has never been opened on the examination of this witness.

The COURT. I do not think you need discuss it any further. That statement is a self-serving statement on the part of the defendant and it is not admissible at this time. You have been quite successful in getting before the jury certain parts of it.

Mr. CORREA. We made no objection to most of it.

The COURT. So there will be no doubt about it and we need not waste any more time. I will rule that statement is not admissible in evidence at this time, and the conversation, what he said Kopf told him or anything of that sort, is not admissible.

Mr. MEDINA. I object to your Honor's rulings on the several grounds on which you have made them, and I may say I also except to your Honor's statement that I have successfully got before the

jury something that may perhaps lead them to think I am guilty of some improper conduct in that respect.

The COURT. Not the slightest.

Mr. MEDINA. I do not think I have.

The COURT. Not the slightest.

282 Mr. CORREA. I will say, Judge, we have not objected to most of the points gotten before the jury.

The COURT. The Court has allowed you to do it.

Mr. MEDINA. I will make my final offer of Defendant's Exhibit C for identification. I take it your Honor rules against it, and I take an exception.

The COURT. Yes.

Mr. MEDINA. I may say, your Honor, that a scrutiny of this exhibit makes it very evident that there are many matters here which have got to be shown to them in order for the jury to have a fair statement of what was said. Just look at it yourself.

The COURT. I do not care to see it.

Mr. MEDINA. It will speak for itself, but I thought in fairness to the defendant I ought to bring your Honor's attention to the fact that there are a number of statements here that have not been brought out, that go to modify or extenuate or explain some of the things that are already given in evidence by this witness, and we think we would be prejudiced unless the jury get the picture of it as a whole.

The COURT. You have been allowed to hand that to the witness and he has been permitted to refresh his recollection from it as to what was said on certain subjects.

283 Mr. MEDINA. But the subjects are in here that nothing has been said about. Well, your Honor has ruled it out and I have taken my exception.

The COURT. You have offered it and you are good enough lawyer to know that a self-serving declaration is not admissible when offered by the person who makes it.

Mr. MEDINA. I also thought I was good enough lawyer to see that if the Government puts in a part of the conversation and there are other parts of that conversation that tend to modify or explain the parts that are in, the whole conversation has to be in in order to have a fair picture.

The COURT. I quite agree with you, but the method of doing it is to ask the witness if this refreshes his recollection and letting him see it; and if he has left something out to state it. I should think that would fully answer the purpose.

Mr. CORREA. If your Honor please, I would just like to clear the record on this. Counsel has stated in the record there are many things in the statement which are not reflected in the testi-

mony of the witness. I should like the record to indicate that counsel has not been in any way hampered in his questioning of the witness along that line, except on that one subject of Cramer's conversations with Norma Kopf. I should also like to point out that counsel's statement is in the record that when the Government puts in a part of the conversation he thinks the defendant is entitled to claim the entire conversation. I should like to point out that statement is in error, that the Government put in an entire conversation and has made no objection to any part of the conversation which the Government put in being introduced on cross-examination. What we have objected to is another and different conversation, on a different occasion, which was never referred to on direct examination and was introduced for the first time on cross-examination. I should like the record to be clear on those things.

285 Mr. MEDINA. Well, it only makes the matter more confusing, your Honor, to refer to it further, it seems to me, but I must add this, that we consider this Sunday morning conversation as a mere continuation of what was said by these men and by Cramer the evening before. They continued right along until two o'clock in the morning, and then he had to get some sleep and they continued right along practically as soon as he got up the next morning, which I think is all right. We do not criticize it, but to say that it is not practically the same continuous course of questioning it seems to us not quite in accord with the facts. However, your Honor has ruled the document out and I have noted our exception. No further questions.

Redirect examination by Mr. CORREA:

Q. Now, sir, you were interrogated this morning concerning your conversation with Cramer on the subject of Cramer's knowledge of how Thiel came here and what his mission was?—A. Yes, sir.

Q. And is it correct, just to summarize what you testified to in that regard, and to be certain we have it right here, that Cramer said in effect that he had a hunch that Thiel came on a submarine?—A. That is correct.

Q. That he had a hunch he came ashore in a rubber boat?—A. From the submarine; that is correct.

Q. And he used that word "hunch" did he not?—A. That is right.

Q. And that he had a hunch that Thiel was here for the purpose of disseminating rumors for the German Government?—A. Yes, sir.

Q. And that he had a hunch that Eddie, that is Kerling, was here for the same reason as Thiel?—A. Yes, sir.

Q. And that he had a hunch that the money Thiel had was related in some way to Thiel's mission, is that correct?—A. Yes, sir.

Q. Am I correct in stating that is the way he put it? He did not say "suggestion," he said "hunch"?—A. Hunch.

Q. Now, the point was made in the question just before lunch, or at least it seemed to me there was some question, as to whether or not the agents who were questioning Cramer first suggested to him that Thiel might have come in a submarine. Now I want to know from you, sir, who first mentioned the possibility that Thiel arrived here in a submarine, the agents in the questions to him or Cramer himself in an answer?—A. Cramer told us that he had asked Thiel whether he had come on a submarine.

Q. Was that in response to some question by you or one of the other agents, "Did Thiel say he had come in a submarine?"—A. No. The question put to Cramer was, "Did Thiel tell you how he got over here?" And Cramer said he asked Thiel if he came over on a submarine.

287 Q. Then he said he had a hunch Thiel had come in a submarine from the way Thiel replied?—A. Yes.

Q. And is the same true as to the matter of how Thiel landed from the submarine?

Mr. MEDINA. I move to strike out the part of the answer in response to the question "from the way Thiel replied." My recollection is that the witness testified very explicitly, not that Thiel replied but that he smiled, and because of the smile Cramer got the hunch? Am I right about that, Mr. Willis?

The WITNESS. No, sir; Thiel replied "I will tell you later."

Mr. MEDINA. Oh, yes. I thought it was the smile. It is both, then?

The WITNESS. Yes.

Q. Is this the fact, that Cramer stated in substance that Thiel's demeanor and his answer led Cramer to the belief that Thiel had arrived here by submarine?—A. Yes. Cramer's very words were that Thiel's smile and putting him off substantiated his hunch.

Q. In other words, he felt that his hunch had been substantiated by Thiel although Thiel did not say "yes" in so many words, is that correct?—A. Yes, sir.

Q. Is the same true as to Cramer's hunch regarding why Thiel had come over here; that is, that he had come over
288 here, I believe, Cramer stated he told you or believed, Thiel had come over here to spread rumors?—A. Yes. You mean was the thought advanced by Cramer?

Q. Yes.—A. Yes; it was.

Q. That was not suggested to him in any question by you or any of the other agent?—A. No, sir.

Q. You stated, sir, in your cross-examination that Cramer was examined by a doctor on the evening of the 27th or early morning of the 28th?—A. I did.

Q. Is that pursuant to an invariable practice of the FBI when a witness is held overnight?—A. Yes, sir.

Q. And you do that in every case?—A. Every case.

Q. There was no special reason in this case?—A. Absolutely none.

Q. And it is done, so there will be no secret about it, to preclude any claim of a third degree?—A. Third degree.

Mr. MEDINA. I object to that. There is no such claim and I don't think that is proper or relevant.

Mr. CORREA. I think we might as well know why they examine men with a doctor.

Mr. MEDINA. What has that to do with this case, your Honor? The Court. I do not believe it is relevant.

Mr. CORREA. It was brought out on cross. I don't know what it has to do with the case either.

Mr. MEDINA. I move to strike out the answer of the witness and object to the question relative to their practice in other cases, or their practice to avoid this or that, which questions are not in this case.

Mr. CORREA. I will withdraw the whole thing so as to avoid any controversy.

Mr. MEDINA. Then the answer is stricken out?

The Court. Yes, the answer will naturally go out with the question.

Q. Now, sir, there was some point brought out on cross examination to the effect that so far as you knew the FBI did not know of Cramer's meeting with Thiel on the 22nd of June. Did you make some such answer as that, sir?—A. Yes.

Q. Until Cramer told them, is that right?—A. That is right.

Q. Now when you first got Cramer in and started to question him, you made it clear to him that during that week, that is the week preceding the 27th of June, he had been under surveillance by FBI agents, did you not?—A. Yes, sir.

Q. And did you indicate to him that that surveillance had started on the 23rd?—A. No, sir.

Actually, so far as you knew, it had, is that right?—A. It had, yes.

Q. But that was not indicated to Cramer?—A. Oh, no, sir.

Q. And Cramer told you with whom he had been and where he had been on the 22nd, after you had indicated to him he had been under surveillance, is that right?—A. That is correct.

Q. It was also brought out on your cross-examination that within a very short time after you started to question Cramer, he admitted that the man with whom he had been on the 23rd, was not William Thomas, but in fact Werner Thiel, or rather that William Thomas was Werner Thiel?—A. About an hour and a half after he came in.

Q. And isn't it true, sir, that he did not make that statement until you or the other agents stated to him or asked him specifically, was not William Thomas in truth Werner Thiel?—A. Yes. I recall the question as having been put, isn't it a fact that Werner Thiel is William Thomas?

Q. And he said "Yes, it is."—A. Yes.

Q. And it was at that time he stated, was it not, that the reason Werner Thiel was using the name William Thomas was because of some draft difficulty?—A. Yes, sir.

Q. And immediately after that he went on to explain that Werner Thiel had never been out of the United States, didn't he?—A. Yes.

291 Q. And that he had been out on the West Coast working in a factory?—A. Yes, sir.

Q. And then it was after that that he and Osthoff had a conference alone, wasn't it?—A. I believe so; yes; it was.

Q. Was it after the conference with Osthoff he said that the reason he made the false statement prior to that conference was to protect his friend, Werner Thiel?—A. That is correct.

Q. He did not mention any draft difficulty in connection with that, did he?—A. No, sir.

Q. One further thing. In your testimony on both direct and cross-examination where you testified that Cramer made statements to you about what he thought concerning Thiel's mission over here or concerning the money or any of these other subjects, was Cramer telling you what he thought at the time you were questioning him, or was he tell you what he thought at the time the events occurred?—A. He was telling us what he thought at the time the events occurred. We were not particularly interested in what he thought then.

Q. In other words, what he thought when he was meeting Thiel?—A. Yes.

MR. CORREA. I have no further questions.

292 RE cross-examination by MR. MEDINA.

Q. Mr. Correa has taken you over the ground again of these statements made by Mr. Cramer, and you told the jury on redirect what you recall of it. Isn't it a fact that this paper here is the first written record made of these very statements made to you by Cramer?—A. Starting from the 27th? No, sir.

Q There is some other writing, is there?—A. My own notes.

Q And as far as having something that Cramer signed, I mean, this is the first writing in which these statements you have been telling us about were put down in black and white and signed by him, isn't it?—A. Yes, sir.

Q You had him put his name at the bottom of every one of these sheets of paper here?—A. Yes, sir.

Mr. MEDINA. In view of the re-direct examination I re-offer this paper.

Mr. CORREA. Same objection, if your Honor please.

The COURT. Same ruling.

Mr. MEDINA. Exception.

Mr. MEDINA. No further questions.

Mr. CORREA. That is all, Mr. Willis.

293 ALVIN E. OSTHOLTHOFF, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. CORREA.

Q Mr. Ostholthoff, you are a special agent of the Federal Bureau of Investigation, are you not, sir?—A. I am.

Q On the night of June 27, of this year, were you present at the offices of the FBI in this building when this defendant, Anthony Cramer, was questioned?—A. I was.

Q When did that questioning commence, sir?—A. It began at approximately 11:20; that is the time he was brought into the office, and we began the questioning shortly thereafter.

Q How long did it continue?—A. It continued until approximately two in the morning, two the next morning.

Q Were you present during that entire time?—A. Yes.

Q Now, sir, when the defendant Cramer was first interviewed was there any discussion had with him on the subject of a man with whom he had been at Thompson's cafeteria on the evening of June 23rd?—A. Yes, sir; there was.

Q Will you tell us what, if anything, the defendant Cramer said concerning the identity of that individual?—A. He was asked

who the individual was that he was with in Thompson's

294 cafeteria on that date, and he said that that was a man named Bill Thomas.

We then asked him who Bill Thomas was and how long he had known him, when he told us that

Thomas was a fellow he had first met out in Detroit, Michigan

some years before, and had continued in acquaintance with him

for some time up until March of 1941 when Thomas had left New York City to go to the West Coast of the United States, and that

he had not seen him until shortly before the time that we were talking to him, that is in June of 1942.

Q Did Cramer make any statement to you in the course of this

interview as to whether or not William Thomas, as he described him, had been out of the United States at any time?—A. He stated that Thomas had not been out of the United States.

Q. For what period of time was this?—A. From the time he knew him until June of 1942.

Q. Now, sir, did there come a time in the course of this interview when defendant Cramer made some different statement as to the identity of the man he had described as William Thomas?—A. Yes, sir.

Q. And will you tell us how that came about and what he said?—A. After we had questioned him about the identity of Bill Thomas and his acquaintance with him, we then asked him as a matter of fact it was not true that Werner Thiel and Bill Thomas were one and the same person, and at that time he admitted that the person whom he had named as Bill Thomas was actually Werner Thiel.

Q. Did the defendant Cramer say anything at that time to explain why he had referred to Werner Thiel as Bill Thomas?—A. Yes; he said that Thiel had been in some difficulty with the draft board and he was going under an assumed name to avoid that difficulty.

Q. And after that statement did he say anything concerning whether or not Werner Thiel had been out of the United States?—

A. Yes; he told us that Werner Thiel had not been out of the United States from 1929 up until the time that we talked to Cramer.

Q. Did he make any statement as to where Werner Thiel had been during the months preceding June of 1942 at that time?—A. Yes. He said that Werner Thiel had been on the West Coast of the United States, and I recall definitely asking him what Thiel had been doing on the West Coast of the United States, and he said that he had been working in a factory out there.

Q. Now, sir, was the defendant Cramer interrogated at this time on the subject of whether or not Thiel had given him anything on the 23rd of June?—A. Yes.

Q. And will you tell us what he said on that subject, sir?—A. He said that Thiel had given him some money at the Twin Oaks Inn, a sum of \$200, which was contained in a money belt.

Q. Did he say anything as to what the purpose of this gift or transfer of \$200 was?—A. Yes; he said that this was in payment of money that Thiel owed to him; that it was an accumulation of small loans over a period of years.

Q. Now was there any discussion at this point in the interview

with the defendant Cramer concerning his safe deposit box?—A. Yes, sir.

Q. And what was that discussion, sir?—A. We asked him if he had a safety deposit box at the Corn Exchange Bank, 86th Street branch, and he replied that he had. He was then asked what the contents of the box were, and he replied that there was approximately \$3500 in cash in the safety deposit box. He was then asked if that was his money and he replied that it was. We asked him where he had acquired such a sum of money, and he stated that he had obtained it through the sale of securities.

We asked him to give us a list of the securities he had sold, and he named a certain number of stocks he had sold, together with the amount of return, and it was noted that this sum did not nearly approach the sum of \$3500 which was in the safety deposit box.

When this was pointed out to him, he said that he also put other moneys in there, from time to time, out of 297 his earnings and from other sources that he may have obtained moneys from, pointing out particularly as I recall it, that he had recently received a money order from a man named Thielmann in Chicago, and he said he had received other sums of money such as of that type, which he also put in the safety deposit box.

Q. Now, sir, did there come to a point in the interview when the defendant Cramer asked to see you alone?—A. Yes.

Q. And he did see you alone, did he not?—A. Yes, sir. The other agents left the room.

Q. When you saw him alone did you have a conversation with him?—A. I did.

Q. And did he make any statement to you in the course of that conversation concerning the statements he had made to you and the other agents up to that point?—A. Yes, sir, he did.

Q. Will you tell us what he said?—A. He stated that up to this point in the questioning he had been lying; that he was doing it to protect his friend Werner Thiel. He said that "I realize that you men know a great deal and that it is useless for me to try to lie any further, so I am going to tell you the truth." He said that first Werner Thiel has been out of the country; he has been over in Germany, and "I know it." He said, "He came to New York from Florida." I asked him if he knew how Thiel had come into the country. He said Thiel had not told him but he felt sure that Thiel had come upon a submarine. I asked him why Thiel was here and he said "I don't know exactly. Thiel told me that he is on a mission for the German Government." I said, "Well, what exactly is the mission?" He said "He has not told me that." I said, "Is he here to commit sabotage?"

He said "I don't know. He has not told me." I said, "Is he here for the purpose of doing espionage?" and he said "He has not told me that." He said, "I think he is here to stir up unrest among the people and probably spread propaganda."

I think that is essentially the conversation I had with him while we were alone. It was a rather short conversation.

Q. But in that he said to you, did I understand you to say, that Cramer stated to you that Thiel had told him, Cramer, that he, Thiel, was here on a mission for the German Government?—

A. Yes, sir.

Q. Now, sir, after your conversation with Cramer alone, was there further discussion or conversation with Cramer at which the other agents were present?—A. Yes, sir; there was, for about twenty minutes or a half an hour on that occasion.

Q. By the way, during all this time, except when you and Cramer were alone, was Agent Willis, who has just testified, also present?—A. Yes, sir.

Mr. CORRA. You may inquire.

Mr. MEDINA. No questions.

Mr. CORRA. Thank you, Mr. Osthoff.

KENNETH RUTEN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. BURKE.

Q. What is your occupation, Mr. Rutten?—A. I am a special agent of the Federal Bureau of Investigation.

Q. Attached to what office?—A. New York.

Q. On June 25th of this year were you in the neighborhood of 80th Street, this city?—A. Yes, sir.

Q. At what time of day?—A. Well, I was there from about 6:30 a. m. up until around 12 o'clock.

Q. And where were you located at first?—A. I was on 83rd Street near 171.

Q. Who was with you?—A. Agent John Willis and Agent C. L. Green.

Q. Will you tell us what you observed at that time?—A. Well, as a matter of fact we were looking for Mr. Cramer and observing his home at 171 East 83rd Street. At approximately 10:30 he left his home and walked up to Lexington Avenue, which would be west, and then walked up Lexington Avenue to the Corn Exchange Bank, at the corner of 86th Street, just west of Lexington Avenue.

Q. You and the other two agents you have mentioned followed him?—A. That is correct, and at the corner of the bank, on reaching the bank he entered the bank. The other two agents remained outside and I followed Mr. Cramer inside the bank.

Q. After you went into the bank after him, what did you observe in there?—A. Upon entering the bank I observed Mr. Cramer filling out what appeared to be a deposit slip or some regular action you would notice in a bank, and after a certain amount of writing he walked over to the deposit window where there was a young lady in attendance and handed her something, which I believed to be a deposit. And after that transaction he turned and walked down the stairs to the lower level of the bank, which is the place where the safety deposit boxes are kept. I watched him until he walked down and turned out of side, and I remained upstairs. Then approximately—oh, he was not there long, fifteen or twenty minutes, maybe not that long, I do not recall exactly, he returned and went out of the bank.

Mr. BURKE. You may inquire.

Mr. MEDINA. No questions.

301 CHARLES M. DUNCAN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. BURKE:

Q. What is your occupation, Mr. Duncan?—A. I am a special agent of the Federal Bureau of Investigation.

Q. Attached to what office?—A. Presently attached to the Los Angeles office.

Q. On June 25th of this year were you in the vicinity of Thompson's cafeteria?—A. Yes, sir; I was.

Q. At what time, approximately?—A. At approximately 8:20 p. m. on the 25th I was across the street from Thompson's cafeteria.

Q. That is on East 42nd Street?—A. Yes, sir.

Q. Will you tell us what you observed while you were there?—

A. I observed the defendant Anthony Cramer walk across from Thompson's to the Defense Bazaar on the corner of Peishung Square and 42nd Street, and from there he proceeded west on 42nd Street to the rear of the City Library, and continued around strolling through the park and later he returned back, after strolling through the park, back to the front of Thompson's cafeteria at 97 East 42nd Street.

Q. How long did he remain there around the cafeteria?—A. I should say approximately three minutes; from about 9 to 302 approximately three minutes past 9. He stood in front of Thompson's and was looking in through the front window of Thompson's cafeteria.

Q. Then finally what did he do?—A. He then walked east on 42nd Street, down to almost to Lexington Avenue and turned around and walked back to the front of Thompson's cafeteria, stood for about a minute looking in the window again, and then

he proceeded into Grand Central Station, which is the entrance adjacent to Thompson's cafeteria, and took the Lexington Avenue subway north to 86th Street, where he got off and walked up Lexington Avenue to 88th Street to the Kolping House, which is at 165 East 88th Street.

Q. Coming down to the following day, June 26th, in the evening, Mr. Duncan, were you once more in the vicinity of Thompson's cafeteria?—A. Yes, sir. I had been across the street from the residence of Anthony Cramer at approximately 7:40 of that evening, and he had come out of 171 East 83rd Street, his residence, and had taken a Lexington Avenue subway down to Grand Central, and had gotten off and walked up to the front of Thompson's cafeteria and entered the cafeteria.

Q. About what time was that?—A. That was around 7:55 approximately.

Q. Was someone with you at the time?—A. Yes, sir.

Q. Who?—A. That was, agent Chappellear; Special Agent C. W. Chappellear.

Q. How long did Cramer remain in Thompson's cafeteria on the evening of June 26th?—A. He was there approximately nine or ten minutes. He had a cup of coffee or something to drink and sat at a table alone.

Q. After he came out of there what did he do?—A. When he came out after being in about ten minutes he walked east on 42nd Street down to Lexington Avenue and up to the Twin Oaks Inn at 44th and Lexington, where he stayed about a minute. He did not sit down, but merely walked in and turned around and came out again and walked back to Thompson's cafeteria.

Q. Then what did he do there at Thompson's cafeteria again?—A. He stood there and looked into the windows through the front, presently looking over the entire cafeteria, and then he walked back into the Grand Central station and took a subway to 86th Street.

Q. Did you continue to observe his home thereafter that evening?—A. Yes, sir. He went from the 86th Street station of the Lexington Avenue subway and walked to his home to 171 East 83rd.

Q. Did there come a time later in the evening when he came out of his home again?—A. Yes, sir; about 10:15 to 10:18 he left his home and came out with a woman.

Q. And where did he go?—A. He and the lady walked down to Third Avenue on 83rd Street, walked up Third Avenue to 88th and into the Kolping House at 165 East 88th Street.

Q. Will you look at this piece of paper Exhibit 66 in evidence, a

slip with notations of numerals on it [handing to witness]. Have you ever seen that before, sir?—A. Yes, sir.

Q. Where did you first see that and under what circumstances?—

A. On the night of June 27th, after Cramer had been brought to the New York field division of the FBI office, some time after he was in the office, some time after 14:20, his personal belongings were turned over to the agents including myself, and that notation—the piece of paper with the notations on it—was turned over among those things.

Mr. BURKE. You may inquire.

Mr. MEDINA. No questions.

JOHN A. O'BRIEN, called as a witness on behalf of the Government being duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

(Page of book marked "Government's Exhibit 70" for identification; two cards marked Government's Exhibits 71 and 72 for identification.)

Q. Mr. O'Brien, what is your occupation?—A. Superintendent of the safe deposit vault, Corn Exchange Bank.

Q. What branch of the Corn Exchange Bank?—A. 86th Street.

Q. I show you a book marked Government's Exhibit 70 for identification [handing to witness], and ask you whether this book is a record produced by your bank pursuant to subpoena?—A. Yes, sir.

Q. Is this one of the records of your bank kept in the regular course of business?—A. Yes, sir.

Q. What kind of a record is it?—A. It is a record made of payments on the safe deposit boxes.

Q. Does that book contain a sheet relating to an Anthony Cramer or A. Cramer?—A. This is a receipt given [indicating].

Q. There is a receipt in this book relating to an A. Cramer?—Yes, sir.

Mr. GOODKIND. I offer this page of the book marked Exhibit 70 for identification.

Mr. MEDINA. No objection.

(Government's Exhibit 70 for identification marked in evidence.)

Q. Mr. O'Brien, will you look at the page of this book marked Government's Exhibit 70 in evidence, and I ask you whether there is on there an entry relating to a transaction with A. Cramer?

A. Yes, sir.

Q. Was that entry entered in the book by you?—A. By me; yes, sir.

Q. What transaction does it represent?—A. It is the payment of the safe deposit vault in advance.

Q. Did you see Anthony Cramer?—A. Yes, sir.

Q. When was that?—A. On the 25th of June.

Q. And where?—A. At the Corn Exchange Safe Deposit Company, 126 East 86th Street.

Q. Where in the bank was he?—A. Down in the vaults; down two flights of stairs.

Q. Down the stairs in the safe deposit vaults?—A. Yes, sir.

Q. And you were there?—A. Yes.

Q. What happened on that occasion?—A. He came in and wanted to pay his rent on the box. He gave me the money and I made out the receipt and he signed it.

Q. At that time did he have a box which he rented?—A. Yes, sir.

Q. What was the box number?—A. 1254.

Q. Did he at that time renew his rental?—A. Yes, sir.

Q. Did he pay you?—A. He paid me the money; yes, sir.

Q. How much?—A. \$6. Yes; \$6; correct.

Mr. GOODKIND. With the consent of the defendant I will substitute a photostat of the page of that exhibit.

Q. Mr. O'Brien, I show you a card marked "Government's Exhibit 71" for identification [handing to witness], and ask whether that also is a record of your bank produced pursuant to subpoena?—A. Yes, sir.

Q. Is that a record kept in the regular course of business?—A. Yes, sir.

Q. What kind of a record is it?—A. Showing when the payments are due and when they are paid.

Q. What do you call it?—A. A ledger card.

Q. For a safe deposit box?—A. Yes, sir.

Q. Is that a ledger card relating to Anthony Cramer?—A. Yes, sir.

[Mr. Goodkind shows card to Mr. Medina.]

Mr. MEDINA. No objection.

Mr. GOODKIND. I offer it in evidence as Government's Exhibit 71.

(Government's Exhibit No. 71 for identification now marked in evidence.)

Q. Mr. O'Brien, does Government's Exhibit 71 in evidence show that Anthony Cramer rented a safe deposit box in your bank?

A. Yes, sir.

Q. On any particular date?—A. On July 3, 1941.

Q. Does this also show a renewal of the rental?—A. Yes, sir.

Q. On what date?—A. June 25, 1942.

Q. Does it show the number of the box?—A. Yes, sir.

308 Q. What is the number?—A. 1254.

Q. Mr. O'Brien, I show you a card marked Government's Exhibit 72 for identification [handing to witness], and ask you whether that is a record of your bank produced pursuant to subpoena?—A. Yes, sir.

Q. Also a record kept in the regular course of business?—A. Yes, sir.

Q. What kind of a record is that?—A. That is a signature card.

Q. A signature card for the safe deposit box?—A. For the safe deposit box.

Q. Is that a record relating to an Anthony Cramer?—A. Yes, sir.

[Mr. Goodkind hands card to Mr. Medina.]

Mr. MEDINA. We make no objection. We have been talking here about some little entry that may have been put on afterwards and if so it can easily be explained. We make no objection whatever.

Mr. GOODKIND. I offer Government's Exhibit 72.

(Government's Exhibit 72 for identification now marked in evidence.)

Mr. GOODKIND. With the leave of counsel I substitute photostats of both exhibits 71 and 72.

Mr. MEDINA. Very well.

Mr. GOODKIND. You may inquire.

Mr. MEDINA. No questions.

309 PHILIP MULLER, JR., called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Mr. Muller, what is your occupation?—A. Banking.

Q. Where?—A. Manager of the Corn Exchange Bank Trust Company, 86th Street branch.

Q. Does that bank have safe deposit boxes?—A. It does.

Q. Did this defendant Anthony Cramer have a safe deposit box in your bank?—A. He did.

Q. Were you present on any occasion this summer when that box was opened?—A. I was.

Q. Was that on or about June 29th?—A. That was on June 29th.

Q. Were there agents from the Federal Bureau of Investigation there at the same time?—A. There were.

Q. What happened on that occasion?—A. Well, Agent Willis, I believe, presented an authorization signed by Mr. Cramer to allow him to get at the box and remove the contents thereof.

Q. Did you then go down to the vault?—A. Mr. Willis and I believe two other agents and myself went down to the vault.

Q. Did you get out the box?—A. We got out the box.

Q. Was that box No. 1254—A. Yes, sir.

310 Q. Was it then opened in your presence?—A. The outer section was opened and the tin—

Q. I did not hear what you said.—A. The outer-lock was opened and the tin container taken out and taken to a booth in the presence of the agents and myself, and in the booth the box was turned over to Mr. Willis, who opened it—

Q. In your presence?—A. In all of our presence.

Q. And what was found inside the box?—A. There was \$3,500 in cash and a safe deposit rent receipt.

Q. In what form was the \$3,500 in cash?—A. All in \$50 bills.

Mr. GOODKIND. You may inquire.

Mr. MEDINA. No questions.

CATHERINE O'MEARA, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Miss O'Meara, you are a mail clerk employed at the Commodore Hotel in New York City?—A. Yes, sir.

Q. And you were so employed in June of this year?—A. Yes.

311 Q. I now show you Government's Exhibit in evidence No. 67, being an envelope clipped to a note, as to which there is previous evidence that the note was contained in the envelope [handing to witness], and ask you whether you have ever seen this before?—A. Yes; I saw that envelope before—A man left it at the hotel.

Q. You have seen this note before at the hotel?—A. Yes.

Q. I indicate to you on the envelope some writing in pencil, and I ask you whether that was put on there by you?—A. The man left it at the information desk and when I got it he was not registered, and I put "Not registered" with my initials and I filed it away at the mail desk.

Q. This pencil notation, what are the letter "N. R."?—A. "Not registered" and the "K" is my initial.

Q. That means you could not find the addressee of the note registered at the hotel; is that correct?—A. That is right.

Q. You then put the message in the uncalled-for-messages box?—A. In that mail basket.

Mr. GOODKIND. You may inquire.

The COURT. To whom is that note addressed?

Mr. GOODKIND. This is addressed to Mr. William Thomas, Hotel Commodore, City, Government's Exhibit 67 in evidence.

Mr. MEDINA. No cross-examination.

312 FLORENCE E. SMITH, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Miss Smith, are you also a mail clerk employed at the Hotel Commodore, New York?—A. Yes.

Q. And you were so employed in June of this year?—A. Yes.

Q. I show you Government's Exhibit 67 in evidence, a note and an envelope attached thereto [handing to witness], and ask you whether you have seen that before?—A. Yes.

Q. I indicate two time-stamps on the back of the envelope and ask you when you saw it before?—A. The time stamp is stamped at the desk, but I don't see it when the time stamp is put on.

Mr. MEDINA. I do not know that the jury can hear. I cannot hear a word.

The WITNESS. The time stamp is stamped by the girl who takes it in; takes the note in. It is stamped by her and filed at my window.

Q. The first time stamp appearing on this envelope is June 27th?—A. 10:49.

Q. 10:49 a. m. There is a second time stamp, is there not?—A. Yes.

Q. June 30?—A. Yes.

313 Q. Is that the date this note came to your attention?—

A. Yes; I presume it is.

Q. What did you do with it?—A. There was a guest by the name of William Thomas registered and I sent it up to that room. The figures are on there.

Q. On June 30th you found a guest named William Thomas registered in the hotel; is that right?—A. That is right.

Q. What room did you send it to?—A. 282.

Q. That is the notation appearing on the envelope?—A. That is right.

Q. Did you see the note again?—A. When it came back from the girl on that floor.

Q. That is the note came back after you sent it up?—A. That is right.

Q. What did you do with it then?—A. Filed it then.

Q. Filed it in the uncalled for messages box?—A. That is right.

Mr. GOODKIND. You may inquire.

Mr. MEDINA. No questions.

(Adjourned to Friday, November 13, 1942, at 10:30 a. m.)

314 [Title omitted.]

NEW YORK, November 13, 1942;

10:30 o'clock, a. m.

Trial resumed.

ROBERT F. CARNEY, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Mr. Carney, what is your occupation?—A. Assistant manager of the Hotel Commodore.

Q. And did you hold that position in July of this year?—A. I did.

Mr. MEDINA. I did not quite get what his occupation was.

The WITNESS. Assistant manager of the Hotel Commodore.

Q. I show you Exhibit 67, a Government exhibit in evidence, being a note attached to an envelope addressed to Mr. William Thomas [handing to witness], and ask you if you have seen that before?—A. I have.

Q. Where did you see it before?—A. At the hotel.

Q. Where was it in the hotel?—A. It was filed in the upcalled for messages.

315 Q. About when did you see it?—A. Some time around the middle of July, I think it was.

Q. And what did you do with it?—A. I gave it over to FBI Special Agent Condon, I believe his name is.

Mr. GOODKIND. You may inquire.

Mr. MEDINA. No questions.

JOSEPH E. CONDON, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct examination by Mr. GOODKIND:

Q. Mr. Condon, what is your occupation?—A. I am a special agent of the FBI.

Q. Assigned to the New York office?—A. That is right, sir.

Q. Mr. Condon, I show you Government's Exhibit in evidence No. 67 [handing to witness] and ask you whether you have seen that before?—A. I have, sir.

Q. And where and when?—A. I saw that exhibit at the Commodore Hotel on the 17th of July, 1942.

Q. And was it at that time turned over to you?—A. It was, sir.

Q. By the assistant manager of the Commodore?—A. By the assistant manager Mr. Carney.

Mr. GOODKIND. You may inquire.

316 Mr. MEDINA. No questions.

LEONARD HIGDON, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct examination by Mr. BURKE:

Q. Mr. Higdon, what is your occupation?—A. I am a hair and fiber analyst.

Q. Hair and fiber analyst?—A. Yes.

Q. Employed by whom?—A. By the Federal Bureau of Investigation.

Q. And where is the place of your assignment?—A. Washington, D. C., technical laboratory.

Q. The technical laboratory?—A. Yes, sir.

Q. What are your duties in connection with that assignment?—

A. Well, I analyze physical evidence, principally evidence dealing with hairs and fibers.

Q. In connection with criminal investigations?—A. Yes, in connection with criminal investigations.

Q. And with a view to determining what about the exhibits that you examine?—A. Whether they are similar, the nature of the exhibits.

Q. Can you tell something, Mr. Higdon, about your experience and education in this respect?—A. Yes. I have a Bachelor
317 of Arts degree from the University of Tennessee and a Master of Science degree from Iowa State College, Ames, Iowa; and also some work on Ph. D. degree, about a third credit in the work for a Ph. D.

Q. I did not quite hear that last statement. You also have some work—A. Yes, sir; I have about a third off on my Ph. D. degree. About a third of the work completed.

Q. What are your major studies in connection with that?—A. Biological sciences principally, and also chemical and physical sciences.

Q. Have you also taught those sciences at various schools and colleges?—A. Yes, I have. I did research teaching at Iowa State College and also taught biological science and physical sciences at the Ferris School, which is a college located at Rome, Georgia.

Q. For how long a period of time have you been examining specimens for the FBI with a view to analysis of their content?—A. Approximately eighteen months.

Q. During that period of time you have examined a large number of objects, I presume?—A. Yes, I have.

Q. Mr. Higdon, I have a photograph here which is Exhibit 33-A, of a money belt. That money belt has a tag attached to it in the photograph stating "Money Belt of Ernest Peter Burger." Did you examine that money belt?—A. Yes, I did.

318 Q. There is also another exhibit here, Defendant's Exhibit A, "Money belt found in the apartment of Anthony Cramer." Will you look at that. Did you examine that money belt?—A. Yes, sir. I also examined this belt and compared it with the first belt; this belt here [indicating].

Q. In this examination that you conducted will you tell us what you did? What did the examination consist of?—A. Well, the

examination consists principally of a microscopical examination, that is, the analysis of the structure of the two belts.

Q. There is another exhibit here, Exhibit 35, which has been identified as a belt taken from E. J. Kerling. Did you examine that belt in the course of this study also?—A. I did.

Q. Had you completed telling us what you did in the course of this examination, Mr. Higdon? I do not know whether I interrupted you or not.—A. Well, I made a very detailed examination of the three belts, and compared the detailed information obtained and reached the conclusion that they are similar in construction.

Q. And in arriving at that conclusion that they were similar in construction, what things did you ascertain about all the belts?—

319 A. The first thing I examined was the type of fibres contained in the three belts. They all contained cotton fibers of very good grade. Secondly, I examined the actual material they are made of, not only the weave of the material microscopically, but also the individual threads that go to make up the material, and I found in each case that the three belts are made up of a two-ply thread. By two-ply thread, I mean two cotton yarns twisted together and it so happens in each case these threads are twisted in the clockwise direction. And I further examined the threads with which these belts were sewn and I found that the straps, around the outside and between the compartments, the thread used in the bobbin is a three-ply left twist thread in each case, and each ply has two-ply threads, that is, made up of two-ply right twist thread, making a total of six plies, and that is used only in the bobbin of the machine that sewed these three belts. In the needle of the machine there was used a three-ply left twist thread and each ply made up of only one yarn and it is the same in each case.

Q. And am I correct, Mr. Higdon, that you are in effect stating that your conclusion was that all three belts are made of the same type of yarn and made on the same machine?—A. That is right.

320 Q. Now with respect to Defendant's Exhibit A, the belt found in Cramer's apartment, in your examination of that belt did you discover anything that is not readily observable by the naked eye?—A. Well, I discovered the same thing that I discovered in the case of the other two belts. As I stated before, it is very close-woven material, hard finish, and the belt here [indicating] has the same type of black thread here at one place with another belt I examined, the one taken from Mr. Thiel.

Q. Does that cover everything you determined about these belts, Mr. Higdon?—A. I also did not mention the fact that the sewing is the same, got a double seam all the way around where the buckles are sewn on and the buckles have similar die markings and also

similar crimping tool markings on them—all three buckles—and also that this type of belt has four money compartments, and they are all similar in design and all three belts are possibly 35 inches in length each, and approximately 3 1/2 inches in width.

Mr. BURKE. You may inquire.

Mr. MEDINA. No questions.

JOHN D. MCKINNEY, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. CORREA:

Mr. CORREA. May I have this marked for identification as the next exhibit?

(Marked "Government's Exhibit 73" for identification.)

321 Mr. CORREA. It consists of five pages.

Q. Mr. McKinney, you are a special agent of the F. B. I.?—A. I am, sir.

Q. And assigned to the New York office?—A. That is right, sir.

Q. I show you Government's Exhibit 73 for identification, consisting of five pages. Let me ask you, sir, were you present when those pages were written, as to four of them, and I think the last as hand printed.—A. I was, sir; two pages of handwriting—

Q. And two pages of hand printing?—A. Two pages of hand printing and two in writing in English and one in German.

Q. And by whom was the writing on those pages comprising that Exhibit 73 for identification, made, sir?—A. Werner Thiel.

Q. In your presence?—A. In my presence.

Mr. CORREA. If your Honor please, the exhibit is offered solely as a handwriting standard for another purpose.

Mr. MEDINA. If your Honor please, I do not think that than any question will arise here as to any paper that may be claimed to have been in Thiel's handwriting, and with which the defendant has had any connection. I really see no reason for ob-
322 jecting to this, and I merely offer now, as the defendant is fairly familiar with Thiel's handwriting, and has received many communications from him, that in case of any question the Government may merely have to submit the document to me and I will ask Mr. Cramer, and we will have no trouble about it, or no objection.

Mr. CORREA. That is all, Mr. McKinney. Any questions?

Mr. MEDINA. No; I have no questions.

(Government's Exhibit 73 for identification received in evidence.)

JOHN A. HOLTZMAN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by MR. CORREA:

MR. CORREA. May this be marked as one exhibit for identification.

(Marked "Government's Exhibit 74" for identification.)

Q. Are you a special agent of the FBI, Mr. Holtzman?—A. I am, sir.

Q. Assigned to the New York office?—A. Presently assigned in Washington.

Q. Referring to June and July of this year?—A. June and July of this year I was assigned to the New York office; yes, sir.

Q. I show you Government's Exhibit 74 for identification, consisting of two pages with handwriting on them, the one in ink and the other in pencil, and ask you, sir, were those writings made in your presence?—A. Yes, sir; they were.

Q. And by whom?—A. They were made by Edward J. Kerling, on July 2, 1942.

MR. CORREA. Again, if your Honor please, the exhibit is offered, not for the content, but merely as a handwriting standard for use in connection with further testimony.

MR. MEDINA. I have no objection to the exhibit, but I cannot make the same offer as to this because Mr. Cramer is not familiar with Kerling's handwriting.

(Government's Exhibit 74 for identification received in evidence.)

MR. CORREA. I have no further questions of this witness.

MR. MEDINA. No questions.

CHARLES A. APPEL, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by MR. CORREA:

Q. What is your occupation, Mr. Appel?—A. I am a special agent of the Federal Bureau of Investigation.

Q. And to what particular duties are you assigned?—

A. I work in the laboratory of the Bureau at Washington, in the examination of questioned documents.

Q. For how long have you been so engaged, sir?—A. I have been a special agent for eighteen years.

Q. How long have you been engaged in the examination of questioned documents?—A. About eleven.

Q. And will you indicate to us briefly your qualifications by

way of training and experience in the field of examination of questioned documents?

Mr. MEDINA. I will concede that unless you desire to have it fully stated, that on the witness's statement I am perfectly willing to concede his qualifications as an expert.

Mr. CORREA. I think we will accept the concession.

325 Q. Mr. Appel, did you in the course of your duties for the Federal Bureau of Investigation have occasion to examine this object which has been marked Defendant's Exhibit A in evidence [handing witness], with a view to ascertaining whether or not there was any writing or writings thereon?—A. Yes; I did.

Q. And what conclusion did you reach, sir?—A. I found some faint marks at this place toward the end of the belt, and I tested them with an object of restoring the ink, which was very faint, and found the initials "w t" present.

Q. Written in ink?—A. Yes.

Q. Lettered or script?—A. Well, it is hand lettered.

Q. Hand lettering?—A. Yes.

Q. Did you make any photograph of that?—A. Yes.

Q. Have you any such photograph with you?—A. It is in the witness room.

Mr. CORREA. I wonder, your Honor, if the jury might wish to locate the place here. I think there is some faint mark perceivable there [handing exhibit to jury].

Q. Now, sir, I show you certain postcards which have been marked for identification Government's Exhibits 57 through 62

326 [handing to witness], each card being a separate exhibit for identification, and I show you as well several sheets of handwriting and hand lettering which have been marked

Government's Exhibit 73 in evidence as a handwriting standard [handing to witness], and I ask you, sir, did you make any examination of the handwriting on the postcards and a comparison of it with a view to ascertaining whether or not the postcards were written by the same hand that wrote Government's Exhibit 73 in evidence, the standard?—A. Yes; I did.

Q. Were you able to reach any conclusion as to all or any part of the postcards, or any part of the writing on them?—A. Yes. I came to the conclusion that the handwriting on Government's Exhibits 57, 58, 59, 60, 61, and 62, the postal cards addressed to Mr. Tony Cramer, were written by the writer of Government's Exhibit 73, Werner Thiel.

Q. Will you state what observations made by you led you to that conclusion?

Mr. MEDINA. We concede all that, Mr. Correa. There is no doubt that those postal cards are Thiel's.

Mr. CORREA. If it is conceded the cards are offered in evidence,

if your Honor please. Government's Exhibit 57 through 62 I offer in evidence.

327 Mr. MEDINA. I have no objection to these or any of them. (Government's Exhibits 57 through 62 for identification now marked in evidence.)

Mr. CORREA. I neglected to mention, if your Honor please, that the cards are all written in German, and there are appended to the exhibits translations. I take it they may be received on the same arrangement as we have had heretofore with respect to other translations—that is subject to check by the defense.

Mr. MEDINA. That is satisfactory to the defense, your Honor, and if I may state as to all these translations, the Government has very kindly made them available to us and we have checked with Cramer, and he has told us that in each instance while the language is not exact the substance is there, and for that reason we are very glad to have the translations used.

Mr. CORREA. All right. [To jury:] Now, gentlemen of the jury, these post cards; Government's Exhibit 57 is a postcard addressed to Mr. Tony Cramer, 1235 Lexington Avenue, Box 83, New York City. It is dated in March of 1941 according to the post mark, and the translation reads [reads exhibit]. Government's Exhibit 58 in evidence is addressed to Mr. Tony Cramer, P. O. Box 173, Calumet City, Illinois, postmarked February 28, 1936, and reads: [Reads exhibit]. The translator has indicated in parentheses the name may be "D-r-o-d-g-e".

328 Mr. MEDINA. That is what it is as a matter of fact, "D-r-o-d-g-e."

Mr. CORREA. We do not know what it is. Government's Exhibit 59 in evidence is addressed to Mr. Tony Cramer, 1235 Lexington Avenue, Box 83, postmarked March of 1941, and reads in translation [reads exhibit]; Government's Exhibit 60 is addressed to Mr. Tony Cramer, 1235 Lexington Avenue, Box 83, New York City, postmarked March 31, 1941, and it reads in translation [Reads exhibit]; On Government's Exhibit 61 in evidence the date is not clear; it has what apparently is a Japanese postmark which bears the figure "835"; addressed to Mr. Tony Cramer, Box 83, 1235 Lexington Avenue, New York City, U. S. A. [Reads exhibit]; Government's Exhibit 62 is a post card postmarked Berlin, and dated as well in handwriting at the beginning of the writing, Berlin, October 8, 1941, and it reads as follows [Reads exhibit]; The address first: Mr. Tony Cramer, Box 86, 1235 Lexington Avenue, New York City.

By Mr. CORREA:

Q. I show you these exhibits marked for identification "Government's Exhibits 42 and 52" respectively, and you will note each

one of these exhibits bears in handwriting upon it the name William Thomas and an address [handing to witness]. Have you made an examination of that handwriting in which the
329 name William Thomas and the address on each exhibit are written?—A. Yes; I have.

Q. With a view to ascertaining whether or not it was written by the same hand that wrote the standard Government's Exhibit 73 in evidence which has been identified as being the handwriting of Werner Thiel?—A. Yes; that is right.

Q. What conclusion did you reach, sir?—A. I came to the conclusion that the handwriting on Government's Exhibits 42 "William Thomas, 50 W. 92d St., New York City" and the handwriting on Government's Exhibit 52 "William Thomas, Inland Steel 28 Mason, Hammond, Ind." was written by the writer of Government's Exhibit 73, Werner Thiel.

Mr. CORREA. I offer Government's Exhibits 42 for identification and 52 for identification in evidence.

Mr. MEDINA. No objection.

(Government's Exhibits 52 and 42 for identification now marked in evidence.)

Mr. CORREA (to jury): Gentlemen, Exhibit 42 in evidence is the registration card which has been identified here by an earlier witness from the Hotel Mayflower, and it bears the writing "William Thomas, 50 W. 92d St., New York City," which this witness has identified as being the handwriting of Werner Thiel. The card bears date of June 17, 1942. You recall the Hotel Mayflower is located in Jacksonville, Florida, from which the witness testified earlier. The other exhibit, No. 52 in evidence, is a registration card of the Commodore Hotel. And again bears the name William Thomas, identified by the witness as being in the handwriting of Werner Thiel, and the address "Inland Steel, 28 Mason, Hammond, Ind." The card bears the time stamp June 21, 12.57 p. m., 1942.

By Mr. CORREA.

Q. Now, sir, I show you an exhibit which has heretofore been marked Government's Exhibit 53 for identification, and also an exhibit which has been marked in evidence as a handwriting stand and of the handwriting of Edward John Kerling, Exhibit 74 in evidence [handing to witness], and ask you if you made any examination of those two exhibits heretofore with a view to ascertaining whether or not the writing appearing on any part of the writing contained thereon was made by the same hand?—A. Yes; I did.

Q. What conclusion did you reach respecting that, sir?—A. I came to the conclusion that the handwriting "Edward J. Kerling,

Waltham Company, Clinton Street, Hammond, Inc.," on the registration of the Commodore Hotel, which is Exhibit 53, was written by the writer of Exhibit 74, Kerling.

331 Q. I show you also another card bearing upon it certain handwriting, which is a part of Government's Exhibit 51 in evidence, and ask you if you made any examination of that writing appearing on the exhibit with a view to ascertaining whether or not it or any part of it was written by the same hand that wrote the handwriting standard of Edward John Kerling, Exhibit 74?—A. I did.

Q. What conclusion did you reach?—A. That the writing of the name, "Edward J. Kelly, 3314 Ninth Avenue, Astoria, N. Y.," was written by Edward J. Kerling.

MR. CORREA. I will offer in evidence, if Your Honor please, Government's Exhibit 53 for identification, the other card identified by the witness as part of an exhibit already in evidence.

MR. MEDINA. No objection.

(Government's Exhibit 53 for identification received in evidence.)

MR. CORREA. Now, members of the jury, a part of Exhibit 51, which was identified by this witness as being in the handwriting of Kerling, is this registration card of the Hotel Seminole in Jacksonville, Florida. It reads [reading to jury].

The other exhibit, which is 53 in evidence, is the registration card of the Commodore Hotel, and reads [reading].

332 At this time, if Your Honor please, I should like to offer Government's Exhibit 49 for identification. According to our records it has not been offered in evidence heretofore.

MR. MEDINA. That is one of those hotel records, isn't it?

MR. CORREA. Yes. It is the registration card of the Mayflower Hotel in Jacksonville, and it simply shows how long Thiel remained there, from June 17th through June 18th, 1942.

MR. MEDINA. No objection.

(Government's Exhibit 49 for identification received in evidence.)

MR. CORREA. Members of the jury, I have stated that this simply shows that William Thomas remained there from the 17th of June through June 18, 1942, at the Mayflower Hotel, Jacksonville, Florida.

Q. Now, sir, I show you Government's exhibit which has heretofore been received in evidence and marked "67," and also Government's Exhibit 61 for identification, and 56 for identification; 64 for identification consisting in part of a post card with handwriting on it, and 56 for identification, being a piece of paper with handwriting on it. I will ask you if you made any examination of all three of those to ascertain whether or not they

333 were written by the same hand?—A. Yes; I did.

Q. And what conclusion did you reach?—A. I came to the conclusion that they were all written by the same person.

Mr. CORREA. Now, if Your Honor please, I will offer at this time Exhibit 64 for identification, which is a post card, and 56 for identification, which I may state bears on it an admission by the defendant Cramer that the writing on it, that is on 56, is his. However, it has not been offered heretofore. It is a reconstructed note found in his apartment; 64 for identification includes a translation, the text being in German.

Mr. MEDINA. As stated, Exhibit 56 bears upon it the identification—

Mr. CORREA. I think that was stated. I don't know that it needs to be stated again.

Mr. MEDINA. I withdraw that. As to Exhibit 64, we concede that that is in the handwriting of the defendant.

Mr. CORREA. It has been so identified by the witness, I believe.

Mr. MEDINA. Well, then, if counsel does not desire me to state that, I apologize.

Mr. CORREA. It does not make any difference, Judge.

Mr. MEDINA. I thought it would do no harm.

Mr. CORREA. No; I do not think it does.

334 (Government's Exhibits 56 and 64 for identification received in evidence.)

Mr. CORREA. Gentlemen, Government's Exhibit 56 in evidence is the reconstructed or pasted together note that was found in the apartment of the defendant Cramer according to the testimony of Mr. Carden. It reads [reading].

I think that exhibit was already read to the jury before, Judge.

Exhibit 64 in evidence is a post card which bears no stamp or postmark—apparently never sent—and it appears to have been written, or at least it has a Niagara Falls address. It bears no statement as to where it originated, but it reads, as translated, addressed to Mr. Werner Thiel, 17 Huyden Street, Dortmund, Westphalen, Germany, dated July 7, 1941. It reads [reading].

Mr. MEDINA. That was one of the postal cards found in Cramer's room, was it not?

Mr. CORREA. Yes. I think that is the testimony. Yes; that was one of the post cards found in his room.

I am corrected, if Your Honor please. As to Exhibit 56 for identification, what was read before was the duplicate, the note that was actually left. This is apparently a copy which was found in Cramer's room.

You may inquire.

335 Mr. MEDINA. No questions.

PAUL POWERS, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. BURKE:

Q. Your name is Paul Powers?—A. That is right, sir.

Q. What is your occupation, sir?—A. Safe deposit manager.

Q. Safe deposit manager?—A. That is right.

Q. Of what bank?—A. Manufacturers Safe Deposit Company.

Q. Located where?—A. 85th Street and Third Avenue.

Q. Where do you live, Mr. Powers?—A. 2334 102nd Street, East Elmhurst.

Q. In the month of June of this year, Mr. Powers, did you have any connection with the effort on the part of the United States Treasury Department to get pledges from the public to buy war bonds and stamps?—A. I did, sir.

Q. What connection did you have with that?—A. Supervisor.

Q. Supervisor of what?—A. Of one square block.

Q. Of minute men?—A. That is right.

Q. That was voluntary, uncompensated work you were doing at that time?—A. That is right, sir.

Q. Do you recall, Mr. Powers, on June 22nd of this year in the course of your activities as a minute man, going to the house at 171 East 83rd Street?—A. That is right, sir.

Q. Did you go to the fifth floor of that house?—A. Right, sir.

Q. At about what time of day was this?—A. 6:30 in the evening.

Q. Will you tell us what occurred there?—A. I encountered—
Mr. MEDINA. I object to the form of that question, Your Honor, as much too broad.

The COURT. Yes; I think it is.

Q. Did you ring or knock at any of the doors on that floor, sir?—A. I did, sir.

Q. And how many?—A. All the floors and all the doors.

Q. Now will you look in the courtroom, sir, and tell us whether you see anyone here whom you saw on that floor that evening?—
A. I do, sir.

Q. Point him out, please.—A. The gentleman over here, sir, the fourth man from my right.

Q. At which table?—A. At the counsel table.

Q. I mean there are two tables.—A. This gentleman right here [pointing].

Mr. MEDINA. He means Mr. Cramer, I think.

Mr. BURKE. Indicating the defendant Cramer.

Q. Now, did he come to the door of one of those apartments at which you inquired that night on that floor?—A. That is right.

Q. Did you have a conversation with him?—A. I did.

Q. Will you give us the conversation?—A. I told him I was representing the United States Government on a pledge drive, if he would care to sign a pledge for a bond. He was not interested. I asked him if he would sign up for a stamp. He said he was not interested.

Q. Anything further said by either of you?—A. No; and he closed the door.

Q. Directing your attention to what he said, did he say anything about a ten-cent stamp?—A. He said he was not even interested in the purchase of a ten-cent stamp.

Q. Then he closed the door?—A. That is right.

Q. Was there a bell at this apartment door, or did you knock?—A. I knocked.

Q. Now after he closed the door did you knock again?—A. I did.

Q. What occurred?—A. Knowing there was other roomers in there, I thought I could get to them. He opened the door again and closed the door.

Mr. BURKE. That is all.

338 Mr. MEDINA. No questions. I move to strike out the entire testimony of this witness as irrelevant and of no probative force whatever on any of the issues in the case.

The Court. I think I will let it stand, Mr. Medina.

Mr. MEDINA. I respectfully except.

EMMA KOPP, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Cramer:

Q. Now, Miss Kopp, will you try to keep your voice up so that the last juror here can hear you?—A. Yes, sir.

Q. Your name is Emma Kopp?—A. Yes, sir.

Q. And are you also known as Norma Kopp?—A. Yes, sir.

Q. Where were you born?—A. In Frankfort-on-Main, Germany.

Q. When did you come to the United States, Miss Kopp?—A. On the 17th of August 1928.

Q. Have you gone back to Germany since August 17, 1928?—A. Yes, sir; I did.

Q. When?—A. On the 18th of May 1933.

Q. And was that just a visit?—A. A visit.

Q. How long did you stay?—A. Until the 15th of October 1933.

Q. And you returned to this country?—A. Yes, sir.

Q. Do you know the defendant in this case, Anthony Cramer?—A. I know him, yes.

Q. When did you meet him?—A. I think it was in May or June 1937.

Q. Do you know or did you know as well a man by the name of Werner Thiel?—A. Yes, sir.

Q. And when did you meet him?—A. The end of June 1937.

Q. How did you meet Thiel? Was he introduced to you by someone?—A. Yes, sir.

Q. By whom?—A. By Anthony Cramer.

Q. Did you remain a friend of both Cramer and Thiel?—A. Yes, sir.

Q. And you saw both of them from time to time after 1937?—

A. Yes, sir.

Q. And did there come a time when Thiel went away?—A. Yes,

sir.

Q. When was that?—A. I beg your pardon?

Q. When?—A. When Thiel went away?

Q. Yes.—A. In 1941, in—I cannot think.

Q. What part of the year?—A. In March, 27th of the March 1941.

Q. And was there any discussion had between you and Thiel in the presence of Cramer as to where Thiel was going in March of 1941?—A. He went to Germany.

Q. Was that discussed between you and him in Cramer's presence at any time during that month, for example?—A. Well, yes; he did go back. We discussed that.

Q. Now, ma'am, directing your attention to June of this year, did there come a time in June of this year when you received a communication from the defendant Cramer?—A. Yes, sir.

Q. And where were you in June of this year?—A. In Westport, Connecticut.

Q. You were working up there, were you not?—A. Yes; worked there; yes; in a private family.

Q. Were you a nurse?—A. No; I was a laundress and a kitchen maid.

Mr. CORREA. May this exhibit, consisting of an envelope and note or page of handwriting and a translation be marked as the Government's next exhibit for identification?

(Marked "Government's Exhibit 75" for identification.)

Q. Now, you said you had a communication from Mr. Cramer. In what form was it?—A. He told me, had a

Q. Now, in what form was the communication?—Was it a telephone call?—A. It was a letter, written in June.

Q. I show you Government's Exhibit 75 for identification, which consists of an envelope and letter in part [handing to witness] and ask you is that the letter you received?—A. Yes, sir.

Q. Have you seen Cramer write? Have you seen him write at any time?—A. After this letter; yes.

Q. Do you know his handwriting?—A. Yes, sir.

Q. And you had correspondence with him before?—A. Yes, sir.

Q. And is this in the handwriting of Cramer?—A. Yes, sir.

Mr. CORREA. I will offer the exhibit in evidence, if Your Honor please.

Mr. MEDINA. No objection.

Mr. CORREA. And the translation.

Mr. MEDINA. And the offer includes the admission by Cramer that it is his handwriting, I take it.

Mr. CORREA. Yes; I understand that that is already referred to in Willis's examination.

342 Mr. MEDINA. No objection.

(Government's Exhibit 75 for identification now marked in evidence.)

Mr. CORREA (to jury). Members of the jury, Government's Exhibit 75 in evidence, which is the note the witness stated she received from Cramer, reads in translation as follows—I may say it is postmarked June 25, 1942, addressed "Miss Norma Koppe, Mrs. H. C. Tate, Westport, Conn."

Q. That is the place where you worked, is it not?—A. Yes, sir.

Mr. CORREA. It has the return address 304 East 87th Street, New York, and it reads [reads exhibit].

Each of the original exhibits bore the identification written by Cramer in August, of the handwriting, as being in German.

By Mr. CORREA:

Q. Did you come to New York after you received that note?

A. Yes, sir; I did.

Q. When did you come to New York? After you received that note?—A. On the 26th of June, 6 o'clock.

Q. When you came to New York where did you go?—A. I did go to 165 East 88th Street.

Q. To what place there?—A. To the German Catholic Society Club.

343 Q. Was that the Kolping House?—A. Yes, sir.

Q. How long did you remain there?—A. Until 8 o'clock.

Q. Did you see the defendant Cramer there?—A. No, sir.

Q. Did you see him later that evening?—A. Yes, sir.

Q. When?—A. About 20 minutes past 9.

Q. Where?—A. In his room.

Q. At what address?—A. 171 East 83rd Street.

Q. When you arrived at that address he was there, was he?

A. Yes, sir.

Q. Will you tell us just as closely as you are able to recall what conversation took place?—A. Yes.

Q. Mentioning what he said to you and what you said to him.—
 A. He asked me if I received his letter. I said yes. He asked me what I thought of the news he has to tell me. I told him I could not make out. He asked me again. I said, "Tony, I don't know what it could be." He asked me again I should think hard. I said, "I haven't got the slightest idea what it could be." Then he told me that he received a note one night underneath his door when he came home, and on that note it said "Franz is here from Chicago," and he asked me again "Who do you think that Franz is?" And I told him, "Tony, I don't know, we have so many friends in Chicago I don't know who it could be." Then he said when is he here—he came two times, the note said he should be down on 42nd Street and Grand Central to meet Franz, and when he got there he met Werner.

Q. Referring to whom?—A. Werner Thiel. And I asked him "Werner?" He said yes. I said "It can't be." He said "Yes; it is Werner." I said, "My God, Tony, why did you tell me that?" And I asked him again "Are you fooling me?" And he said no. I asked him "What is he doing here, how did he come?" He said, "Eddie is with him, he is not alone; they came about six men with a U boat, in a rubber boat, and landed in Florida." And I asked him again, "Is this really so?" So he said "Yes; Tony is here—Werner is here, and they live in the Hotel-Commodore." Then I asked him "What is he doing here, what is he living on?" He said, "Oh, they brought so much money along from Germany, from the German government." And I asked him "Did you see Werner?" He said yes, he met him in the Thompson's restaurant on 42nd Street, and he asked Thiel to give him the money, he will save it for him in a safety-deposit box.

Mr. MEDINA. Is this all the conversation of the evening, the first evening, that she met him in his room?

Mr. CORREA. The question is, if Your Honor please, as to the conversation on the occasion of her meeting, and I take it that is what the answer is.

Q. You say "he" asked Thiel.—A. Yes, sir.

Q. To whom does "he" refer?—A. Cramer asked Thiel to let him have the money; he will rent a safety-deposit box and keep it for him.

Q. That is what Cramer told you?—A. Yes, sir.

Q. All-right; proceed if you will, please.—A. Then he told me—I asked him again, "What are he doing here?" He said, "They get instructions from the sitz in the Bronx what to do, and where to go," and I asked Cramer—

Q. Excuse me just a moment, Ma'am. You say Cramer told you that they were to get instructions from the sitz in the Bronx.—

A. Yes. That means a hideout.

Q. S-i-t-z, that is a German word you used?—A. Yes.

The COURT. That means what?

The WITNESS. A hideout. And I asked Cramer, "What do you mean by sitz?" And he told me he didn't know exactly himself. And then he told me he is expecting Thiel that same evening until 10 o'clock; if he does not come by 10 he probably will be in Long Island with Kerling; he has friends in Long Island, to visit them.

Q. Just to be sure we understand, Cramer told you that he was expecting Thiel at Cramer's apartment that evening?—A. Yes, sir; by 10 o'clock.

Q. Until 10 o'clock?—A. Yes, sir.

Q. That is, he would be waiting until 10 o'clock?—

346 A. Yes, sir.

Q. All right, is that the entire conversation?—A. Then he went to the bathroom for a few minutes, and he came back. He said he is going to make a cup of coffee; it is 10 o'clock, he won't come any more. And I told him I would rather go to the Kolping House for a glass of beer.

Q. Was that the end of the conversation?—A. Yes, sir. That is the end of the conversation.

Q. Is that all you recall about that conversation?—A. Yes, sir.

Q. Let me ask you, you stated that in the course of this conversation Cramer told you that Thiel and Kerling had a lot of money from the German government, did you not?—A. I did say.

Q. Did he mention any amount which they had or either of them had?—A. Oh, yes; 3,000, three and a half thousand, something like it, he took.

Q. "Three and a half thousand," he said?—A. Yes.

Q. After this conversation where did you go?—A. We did go to the Kolping House, 165 East 88th Street.

Q. You and Cramer?—A. Cramer and me; yes.

Q. And on your way to the Kolping House or at the Kolping House, in other words during the remainder of the evening,

347 did you have any further conversation with Cramer concerning Thiel or Kerling?—A. He told me on the way to the Kolping House that he will go to the Hotel Commodore the next evening around 11 o'clock and leave him a note that he will come to meet him.

Q. Leave "him," referring to whom?—A. To meet Thiel.

Q. When you say he would leave "him" a note, leave Thiel a note?—A. He told me that he will leave a note for Thiel at the Hotel Commodore.

Q. Did you have any other conversation about Thiel or Kerling?—A. After this Cramer asks me to come along—to come to his room next day at 4 o'clock, half past three. Oh, excuse me.

I think it was 3 o'clock; I am not quite sure any more. And I should come along to Thompson's restaurant to meet Thiel.

Q. On the following day did you go to Cramer's apartment?—

A. Yes, sir; 20 minutes to 4 the next day.

Q. Was he there?—A. Yes, sir.

Q. Tell us what you did.—A. Pardon?

Q. Tell us what you did, please.—A. Then we did go together to Thompson's restaurant.

Q. That is you and Cramer?—A. Yes, sir.

Q. How did you come down, on the subway?—A. On the subway; yes, sir.

Q. Did you go into the restaurant?—A. Yes, sir.

Q. How long did you remain in the restaurant?—
348 A. Until half past four.

Q. Then where did you go after that?—A. Then we did go home.

Q. When you say you went home—A. We parted on Lexington Avenue and 88th Street.

Q. About what time?—A. When we came back from Thompson's restaurant. It was about 20 minutes to 5.

Q. Did you see Cramer again that evening?—A. Yes, sir; in the Kolping House.

Q. About what time?—A. About 10 o'clock.

Q. Did you see him leave the Kolping House that evening?—
A. Yes, sir.

Q. With whom?—A. Shortly before 11.

Q. With whom?—A. With the FBI agents.

Q. Did you know they were FBI agents at that time?—
A. Everybody said so.

Q. By the way, had you had any conversation with Cramer in the course of these two meetings about a minuteman?—A. Oh yes.

Q. When did you have that conversation?—A. In his room also.

Q. On which occasion?—A. On that Friday night.

Mr. MEDINA. I object to this unless the witness is clearly asked to state any conversation she had, without leading.

349 Mr. CORREA. Now, if Your Honor please, that last statement of counsel is uncalled for and unwarranted. I have not been leading this witness and counsel knows it. I don't know why he makes such a statement.

Mr. MEDINA. You cannot get into a quarrel with me.

Mr. CORREA. I do not desire to.

The COURT. I do not think the question was leading.

Mr. CORREA. Did Your Honor rule the question was leading?

The COURT. I said I don't think it was. Nor do I think you have to lead.

Q. Will you tell us what Cramer said to you on that subject?

Mr. MEDINA. If the question relates to the subject of the minuteman, I object to it as irrelevant and of no probative force in the case.

Mr. CORREA. If Your Honor please, in support of the relevancy and materiality of that proof, it is the position of the Government that showing the general motive and disposition, insofar as loyalty to this country is concerned, of this defendant, is probative on the issue of intent. We do not of course say that it is any substitute for specific intent; we have shown specific intent.

350 But this we contend is probative on the issue of intent.

We have shown his motive by writings in November and December 1941.

Mr. MEDINA. Well, I object to this, Your Honor.

Mr. CORREA. May I state my position? Do you want me to state it frankly?

Mr. MEDINA. I do want you to state it frankly, but not with undue elaboration.

Mr. CORREA. We have shown what his motive was, or rather what his disposition was, in November and December of 1941. We have brought it up to date, to April 1942. Now here is another incident which is indicative of his general sympathies and loyalty, occurring, as it happens, on June 22, 1942, the very date of his first meeting with Thiel. I think that is relevant and admissible, and that the objection, if any, goes only to the question of the weight, which is a question for the jury to consider in the light of all the evidence.

Mr. MEDINA. If Your Honor please, I think Mr. Correa's statement only emphasizes the legal effect of my objection. As I understand the crime of treason, the intent involved is a purely specific intent, not a general one. That, as I said, emphasizes one phase of the point of my objection. I think it is particularly harmful because its effect may well be much more than any
351 slight probative value it may possibly have, and we claim it has none.

The COURT. I think incidents of that sort might corroborate, or the jury might find, if corroborated, certain other testimony offered by the Government indicated motive or intent of the defendant.

Mr. MEDINA. I respectfully except.

(The last question was read as follows: "Q. Will you tell us what Cramer said to you on that subject?")

Mr. CORREA. That is on the subject of the minuteman.

A. He also told me that the minuteman called at his door a few days before I saw him, on the 26th, and he got kind of fresh and he closed the door at him.

Q. Is that all he said to you on that topic, Ma'ana?—A. That is all I remember.

MR. MEDINA. I move to strike out the answer upon the same ground as I objected to the question, your Honor, so as to complete my record.

The COURT. Motion denied.

MR. MEDINA. Exception.

MR. CORREA. You may inquire.

Cross-examination by MR. MEDINA:

Q. I notice you have referred in your answers to the defendant as "Cramer." Didn't you call him "Tony"?—A. I did;
351 A. yes, sir.

Q. He was not known to you as Cramer, he was Tony to you, wasn't he?—A. Tony Cramer.

Q. But I say when you addressed him and referred to him with people who were mutual acquaintances, you referred to him as Tony, did you not?—A. Yes, sir.

352 Q. I think you said you had known him since May or June, 1937?—A. Yes, sir.

Q. In the interval after that you saw a good deal of Tony, didn't you?—A. Yes, sir.

Q. Off and on?—A. Yes, sir.

Q. Did he ever wrong you in any way?—A. No, sir. He always had been a gentleman to me.

Q. Were your dealings with him always pleasant?—A. I do not—

Q. You have no reason to harm him in any way, have you?—

A. (No answer.)

Q. Or have you?—A. (No answer.)

Q. Why are you silent?—A. I have no reason to harm him.

Q. None that you can recall, is there?—A. (No answer.)

Q. Now when you had this conversation that you have testified to here, in the evening when you came in from Westport, what did you think he was here for?—A. I did not believe him.

Q. I say, what did you think he was here for?—A. I did not think anything. I could not believe it.

Q. That lets you out, does it?

MR. CORREA. I object, if your Honor please, to that question.

353 The COURT. I think that objection should be sustained.

Q. Now I ask you again, look at these gentlemen, and

tell them what you thought Thiel was here for. You knew he was here, didn't you?—A. I did not believe.

Q. Did not even believe he was here?—A. I did not believe it. I asked him over and over, is it really so. I thought he was fooling me.

Q. You did not even believe that Thiel was here?—A. No, sir; that is why I went along to the Thompson's restaurant Saturday afternoon to convince myself.

Q. But you honestly did not think he was here at all?—A. I did not think that he was here.

Q. And so you did not reach the point where you began to think what he was here for, did you?—A. I did not.

Q. Now you realize you are under oath here; don't you?

Mr. CORREA. That is objected to, if your Honor please, and I think uncalled for in the light of the examination up to this date; stating to the witness "You realize you are under oath." Of course the witness realizes she is under oath.

The COURT. Do you want to press that question?

Mr. MEDINA. Why yes, your Honor. I think it is entirely proper.

The COURT. All right.

354 Q. You realize you are under oath here, don't you?—A. Yes; I realize it.

Q. Now do you say again seriously to this jury here that you did not have any thoughts at all as to why Thiel was here?—A. I didn't think.

Q. But I did not ask you whether you believed it. I asked you whether you had any thoughts of why he was here.

The COURT. Don't you think the witness has answered that several times; that she did not think about it because she did not believe he was here?

Mr. MEDINA. Well, I don't think I need accept that as so, your Honor.

The COURT. All right.

Q. What is your final word on that as to what you thought he was here for, if he was here?—A. I did not think so far.

Q. Did you think that there was a possibility that what Tony told you was so; namely, that Thiel was here?—A. I did not believe it.

Q. No; I know you have said that many times, but I ask you, didn't you realize that there was a possibility?—A. No.

Q. (Continuing.) That he was here?—A. No.

Q. You won't admit that even there was a possibility
355 of it?

Mr. CORREA. I object, if your Honor please, to the form of the question; even there was a possibility of it.

The COURT: Sustained.

Mr. MEDINA: Exception.

Q. Now you were taken into custody shortly after Tony was, weren't you?—A. Yes, sir.

Q. And did they take you down to the FBI room in this building?—A. Yes, sir.

Q. I don't suppose you were taken down together with Tony?—

A. No, sir.

Q. You went separately?—A. Yes, sir.

Q. Were not you a little bit frightened?—A. I was nervous.

Q. But you were not frightened?—A. No, sir.

Q. You knew you had not done anything wrong, didn't you?

A. That is right.

Q. You did not believe anything, so naturally you had not done anything wrong?—A. That is right.

Q. And you felt entirely calm and collected, did you?—A. That is right.

Q. Not in the slightest degree frightened, right?—A. That is right.

Q. Now did you reach a time after you got down here that you were questioned?—A. I beg your pardon?

Q. I say, after you got down to the building here, did there come a time when some of these FBI men started to question you?—A. Yes, sir.

Q. I address your attention to the time they questioned you first, and I ask you what you told them?—A. I told them that I received a letter from Cramer on the 26th of June, and in the evening, six o'clock, I came to New York and then to the Kolping House, 88th Street, until eight o'clock, and I did shopping until twenty minutes past nine, and I went up to Cramer's apartment.

Q. You always seem to call him Cramer now. Did you stop calling him Tony since he got into trouble?—A. No, sir.

Q. Well, just be natural about it, if I may suggest that. Now go ahead and tell us what you told these people.—A. (No answer.)

Q. I am not so much interested in which side of the street you walked in and that sort of thing, but what you told them when they first questioned you about what Tony told you about Werner. What did you tell them when they first questioned you?—A. I don't remember.

Q. Did you at that time deny to the FBI men that Tony told you anything about Werner?—A. No, sir; I did not deny anything.

Q. I did not ask you whether you denied anything. I asked you whether, when you were first questioned, you told the FBI men that Tony had told you nothing about Werner. Is that the fact, that you told them that?—A. I did tell the truth.

Mr. MEDINA. I move to strike out the answer as not responsive.

The COURT. Yes.

Mr. MEDINA. The reporter will kindly read the question.

Q. (Question read.)

The COURT. Do you understand that question?

The WITNESS. No, sir.

The COURT. I don't think the witness understands.

Mr. MEDINA. Then I will reframe it, your Honor.

Q. You understand, Miss Kopp, that when you were first questioned by the FBI men, you could either say "Yes, Tony told me certain things about Werner," or you could say "Tony told me nothing about Werner whatever." Now did you do that?

The COURT. I don't think that question is very clear to this witness.

Mr. MEDINA. Perhaps it is about as clear as it can be made
358 the way I put it the first time, and I ask that it be read again.

The COURT. Listen carefully, and if you do not understand, just say that.

(Question read as follows:

"Q. I asked you whether, when you were first questioned, you told the FBI men that Tony had told you nothing about Werner. Is that the fact, that you told them that?")

A. I did tell the FBI men what Tony had said to me.

Q. And you told them that right in the beginning; didn't wait a minute?—A. Yes, sir.

Q. And what you told them at that time was set forth in a writing, wasn't it?—A. I beg your pardon. I don't understand.

Q. You know what it is to write on a paper with a pen or pencil, do you, Miss Kopp?—A. Yes.

Q. Now when you made this statement when you were first questioned that Saturday evening down here in this building, did not some one of those FBI men have it written right out for you to sign?—A. I don't remember that I signed anything.

Q. You don't remember signing anything?—A. Not that first night.

Q. Were you questioned for a long time that first night?—A. I did not look at the clock, how late it was.

359 Q. Do you know that Tony, if he is convicted here, will go to his death?

Mr. CORREA. That is objected to, if your Honor please. I think that is an extremely improper question.

The COURT. Objection sustained.

Mr. CORREA. I ask that counsel be admonished.

The COURT. Yes, I think that was a little bit out of order.

Mr. MEDINA. If your Honor please, I most respectfully except

to your Honor's ruling. I think I am entitled to bring that to the witness's attention particularly when such a flippant comment is made as was just made in response to my question.

Mr. CORREA. I object and move to strike counsel's characterization of the witness's answer as being uncalled for, and also unwarranted and flippant.

The COURT. I think it was uncalled for. I am not convinced that she was trying to be flippant at all.

Q. You say you did not have a clock on the time you were there. You said that, didn't you?—A. I did not look at the clock.

Q. Did you think that I said you did? Did you?—A. Pardon?

Q. Did you think that I stated that you did look at a clock?—

A. (No answer.)

Mr. CORREA. I will object to this. I don't think counsel should try to take advantage of the witness's obvious difficulties with the language in this manner. I think that kind of question is improper.

Q. Is the question answered?—A. (No answer.)

Q. Did you think that I made any reference to a clock, Miss Kopp?

The COURT. Do you know what "reference" means?

The WITNESS. No, your Honor.

Q. Now I ask you again, and you know about the lapse of time as well as other people, how long do you think you were questioned by the FBI men on that Saturday evening when you were down in this building here being questioned?—A. I cannot remember how late it was.

Q. Can you form an estimate? You seem to have a pretty good memory of other things.

The COURT. I ask you now how long? Not what time it was.

The WITNESS. I don't remember.

Q. Can you form an estimate?—A. (No answer.)

Q. Is there something you are afraid of here?—A. No, sir.

Q. You have no reason to fear anything, have you?—A. No.

Q. I ask you again, what is your best recollection as to the length of time you were questioned by the FBI men on that Saturday evening?—A. I came into this building late in the afternoon. I do not think I had been questioned any longer than two hours.

Q. But I thought you told them right off the bat the same thing you have told the Jury here. Did you?—A. I beg your pardon?

Q. Don't you understand that question?—A. No, sir.

Q. I say, I thought you told this jury a little while ago that

when they first questioned you, you at once told the FBI men just what you told the jury here today. Didn't you?—A. I don't know if I told them the first evening really.

Q. Not so sure about that now?—A. I am not sure.

Q. This story that you told here today took you a little time to think over before you told that to anybody, didn't it?

Mr. CORREA. That is objected to, if our Honor please. I don't think counsel should characterize the witness's testimony in that fashion.

The COURT. That objection is sustained.

Mr. MEDINA. Exception, your Honor.

Q. Do you state now to this jury that when you were first questioned by the FBI men, you told them a different story than the story you told here today? A. It is the same story.

Q. The same story? So that for the minute and I to understand you to say that you did not tell them right away, or did I misunderstand you?—A. I don't remember any more.

Q. But you do remember that you were questioned about two hours, as far as you can recall, on that Saturday evening?

A. It has been on a Tuesday night.

Q. Oh, it was a Tuesday night that the FBI men took you into custody, was it? A. Yes, sir.

Q. How do you happen to remember that? A. Pardon?

Q. How do you happen to recall that it was a Tuesday night?

A. I do remember that.

Q. You have some independent recollection of that, have you?—A. (To the Court.) May I have an interpreter, please?

The COURT. Do you know what "independent" means?

The WITNESS. Yes, sir.

Mr. MEDINA. I don't think we need an interpreter. I strenuously object to it.

The COURT. I don't think we do as yet, certainly.

Q. Now, how do you fix that as a Tuesday night?

Mr. CORREA. I suggest if counsel does not want an interpreter, that he is using the biggest words he can think of.

363 Mr. MEDINA. I do not think they are the biggest, I think of.

Q. Now, Miss Kopp, will you resume, and I ask you, how you happen to fix that as a Tuesday night that you were taken into custody and questioned by the FBI men?—A. I had been in Greenwich, Connecticut, and on a Sunday night I had been to move out, and I moved out on a Monday night, and on Tuesday morning the FBI agent called for me.

Q. Do you recall that you said something about the Kopp House?—A. Yes, sir.

Q. And how you and Tony were up there in the Kolping House, and Tony was arrested?—A. Beg your pardon?

Q. I say, do you remember that you testified that you were up at the Kolping House with Tony, and that Tony was arrested there?—A. Yes, sir.

Q. And don't you remember Mr. Correa asked you something about whether you knew that they were FBI men, and you said you did, or everybody around said they were. Do you remember that?—A. Yes, sir.

Q. Now you were arrested that same night, weren't you?—A. No, sir.

Q. Then we have been talking a little bit at cross purposes, because I thought you said that you were. Now it is a fact that when they arrested Tony that night you were allowed—
364 or you were not arrested?—A. No, sir.

Q. And you realized, however, that Tony had been arrested, didn't you?—A. I thought it was the minute men.

Q. Well, anyway, you were not arrested at the same time Tony was arrested, were you?—A. No, sir.

Q. And so you left the Kolping House that night and you went back to Greenwich?—A. No, sir. I went back to Greenwich Monday night. I worked in Westport. I beg your pardon.

Q. I ought to beg your pardon because I introduced that word "Greenwich" and I should not have. I meant Westport. You went back to Westport?—A. Monday morning, seven o'clock.

Q. And isn't it a fact that in that interval between the time Tony was arrested and the time you went back to Westport the next morning, that you felt no particular concern about Tony? You were not worried about him?—A. I thought it was on account of the minute men. He had told me he had thrown the minute men out.

Q. And I say because you thought it was just on account of these minute men and this incident, it did not worry you particularly?—A. No, not particularly. /

Q. You did not have any idea that he was in anything serious, did you?—A. No, sir.

Q. And so when you went back to Westport you gave that comparatively little thought. You did not worry about that at all, right?—A. I did read the next day, Sunday, about the eight saboteurs and then I believed that. That was here. I saw his picture in the paper.

Q. It was that very Sunday that you read in the newspaper about the eight saboteurs, was it?—A. Yes, sir.

Q. And I notice you have been very particular in giving times, of stating the exact hour of the day and the exact dates. Do you generally do that?—A. As much as I can remember.

Q. You have a pretty good exact memory, haven't you?—A. I don't know.

Q. But you seem to emphasize the details when somebody asks you and you say exactly the hour of the day and the place and the date. That is your habit, is it?—A. It is not a habit. If it is necessary.

Q. You feel it is necessary here, do you?—Or is that word too big?—A. Yes, it is necessary.

Q. And that is why you do it here, although not ordinarily, is that what you mean to say?—A. I sometimes do and sometimes not; if I remember.

Q. So that sometimes you are quite precise and exact and sometimes you are not, all dependent on the circumstances, is that right?—A. Yes, sir.

Q. Now you say that it was on the Sunday after Tony was arrested that you noticed about the saboteurs in the newspapers?—A. Yes, sir.

Q. Do you remember what newspaper it was you read it in?—A. It was—I did not read the paper. I just saw the pictures and the headlines. It was the Times.

Q. In the New York Times?—A. Yes.

Q. And you saw the pictures of these men?—A. Yes, sir.

Q. And that is the day after Tony was arrested?—A. On the 28th of June.

Q. 28th of June, 1942?—A. Yes, sir.

Q. Do you remember what time of the day you read that newspaper?—A. I say it was about five o'clock in the afternoon.

Q. Five o'clock in the afternoon, and where were you sitting?—A. I went to friends on 1575 Third Avenue.

Q. And you remember who was sitting around as you looked at that picture?—A. They went out and bought the paper and everybody looked at the paper.

Q. Do you remember who was there?—A. Not exactly. I know two men.

Q. And who were those two men?—A. One was the owner, Bernard Hillman—

Q. And who was the other one?—A. Carl Nauman. He is the tailor.

Q. And when you say Carl, you call it Paul?—A. That is right.

Q. You got pretty well scared when you saw the newspaper and saw their pictures in there, didn't you?—A. I did not get scared.

Q. You did not connect that at all with anything Tony had told you?—A. Then I began to realize why Tony was arrested.

Q. But I am saying, did you connect that picture with anything

that Tony had told you?—A. I beg your pardon. I don't understand.

Q. When you saw that picture, was there some connection that seemed to you to exist between that picture and anything that Tony had told you?—A. Tony had told me that he met Thiel.

Q. But I say, did you think, after you saw that picture, that there was some connection, some relation, between that picture and what Tony had told you?—A. I did realize then, yes, sir.

Q. Now when you realized that, you still want these gentlemen of the jury to believe that you did not get frightened?—A. I did not get frightened.

Q. You did not get frightened at all?—A. No, sir.

Q. Didn't you think that this was a pretty serious matter that you were perhaps getting involved in?—A. I have not seen Werner Thiel.

368 Q. Well, I know, but I am asking you whether, when you saw the picture in the newspaper of this man—and by the way, how many did you say there were that were in the picture?—A. Eight.

Q. And Werner was one of the eight, wasn't he?—A. Yes, sir.

Q. There was his picture staring at you right out of the newspaper, wasn't it?—A. Yes, sir.

Q. You knew him pretty well, didn't you?—A. Yes, sir.

Q. When you saw that picture in the newspaper on that Sunday, you remembered what Tony had told you, and didn't it occur to you that you might get into some trouble?—A. I were not frightened.

Q. Well, I repeat my question. Didn't it occur to you that you might get into some trouble?—A. No, sir.

Q. The thought never came into your mind that you would like to keep out of trouble, did it?—A. Yes, I did think so.

Q. You thought of that all right. Now did it occur to you what would be the best way for you, Norma Kopp, to keep out of trouble?—A. I thought the best way if I be questioned, is to tell the truth.

Q. You thought of that right there on that Sunday when you looked at that picture?—A. I never thought of that on that Sunday.

369 Q. That is the day I am asking you about. When you looked at that picture in the paper and thought of what Tony had told you, and you were not a bit scared, I say didn't it occur to you then that you had better think of what you had better do to keep out of trouble yourself?—A. A friend of mine told me that if I—

Q. No, I am not asking about what a friend of yours told you.

I am asking you whether, when you saw that picture, and your mind got working, that you did not think you had better do what would keep you, Norma Kopp, out of trouble?—A. (No answer.)

Q. Now did that occur to you?—A. I thought if I will be questioned I will tell the truth.

Q. But you said a little while ago that that is what you thought up later. I am asking you what you thought about at the time you looked at this picture and were considering what Tony had told you?—A. I didn't think. I was nervous.

Q. You were nervous then and you did not think of yourself?—A. No; I didn't think of myself.

Q. Now did it occur to you when you saw that picture in the newspaper on that Sunday, that you had better run to the nearest telephone and call up the district attorney?—A. I thought it was not necessary. Both had been arrested.

Q. You did not think that anything that you knew
370 about the matter made any difference, did you?—A. I don't.

Q. I say you didn't think what you knew about the matter was of any importance to anybody?—A. That is right. I didn't think so.

Q. And that is the reason why you did not go to the telephone to call up the authorities?—A. That is right.

Q. I thought you explained what Tony had told you was about these various dealings that he had had with this man. Didn't you say something like that?—A. When the FBI agents called for me, I did tell them.

Q. But we will come to that later. I am talking about this Sunday when you were looking at that paper there and you did not go and do any telephoning. Do you understand that?—A. Yes.

Q. Now I say again, with the knowledge of what you say Tony told you, didn't you think that it was important that either the police or the district attorney or the FBI should be told about that?—A. I didn't think.

Q. You didn't think about it. Did you in any manner, by telephone or by writing or by going personally, convey that information on that Sunday to any of the public authorities?—A. I beg your pardon?

Q. Did you on that Sunday when you saw this newspaper come out, that is, get in touch, by telephone or any other
371 way, with the police or with the district attorney or with the FBI?—A. I didn't think to get in touch with anybody.

Q. But I am asking you not whether you thought to do it, but whether you did it?—A. I didn't.

Q. Do you recall whether on the evening that Tony was arrested any men from the FBI asked your name?—A. No, sir.

Q. You saw the men when they actually took Tony away, didn't you?—A. I saw one man.

Q. Let us take it as one man. You saw that one man, didn't you?—A. From the back.

Q. From the what?—A. From the back.

Q. But you don't want to take back anything you said about knowing that the man was an FBI man, do you?—A. (No answer.)

Q. Don't you remember you told these gentlemen when Mr. Correa was asking you, that you knew that the man or men was an FBI man?—A. I just knew it through the others.

Q. But however you knew it, the fact remains that you did know it, didn't you?—A. (No answer.)

Q. All right. You are in doubt about that now?—A. Yes. I knew it was the FBI.

Q. Now when that FBI man took Tony into custody, did the FBI man speak to you at all?—A. No, sir.

372 Q. Did you have any reason to know that the FBI man knew who you were?—A. No, sir.

Q. So that when that FBI man took Tony Cramer out of that Kelping House, for all you knew the FBI man had absolutely no knowledge of who Norma Kopp was, isn't that so?—A. I didn't know.

Q. But as far as you can tell, he did not know anything about you?—A. That is right.

Q. Now there you were, on that Sunday, the very next day, looking at that paper and seeing these pictures of these saboteurs. Didn't you think it was up to you to communicate with the public authorities and tell them what you knew?—A. I didn't think.

Q. You didn't think of it. Was that because you wanted to keep Norma Kopp out of this?—A. No, sir.

Q. You didn't feel there was anything for you to fear, did you?—A. I knew both were arrested.

Q. But I say, you did not think of yourself, how to keep Norma Kopp out of trouble, did you?—A. No, sir.

Q. You did not refrain, you did not omit to communicate with the police in order to keep yourself out of the mess, did you?—

A. No, sir.

373 Q. That never entered your mind, did it?—A. No, sir.

Q. Now you say that the next day, Monday, you went back to Westport?—A. Yes, sir.

Q. And it was on the following day, Tuesday, that you were taken into custody yourself?—A. No, sir; that was two weeks later.

Q. Oh, two weeks later?—A. Yes, sir. I went away from Westport on the 4th of July to Greenwich, Connecticut, and there I had been until the 14th of July.

Q. Did you not leave Westport because you thought that was a good way to help little Norma out of trouble, did you?—A. No, sir.

Q. That never entered your mind at all, did it?—A. No, sir.

Q. You would not do anything to help yourself, that might hurt anybody else; would you?

Mr. CORREA. I object to it as argumentative, if your Honor please.

The COURT. It is argumentative.

Mr. CORREA. I think we have had a lot of argument on this subject.

Q. In any event you say just left Westport and went to Greenwich?—A. Yes, sir.

Q. The time that elapsed between the time Tony was talking to you up in his room, as you have told the jury, and the time you were arrested, was something over two weeks, wasn't it?—A. It was almost three weeks.

Q. Almost three weeks. Now during that time did you still continue to think that Tony was arrested because of the minute man?—A. No; I started to read the papers and then I realized.

Q. You started to read those papers about this on Sunday, the very day after Tony was arrested, didn't you?—A. I did not read the papers. I just saw the pictures.

Q. Well, just the pictures. But even if you had read dozens of pages it could not have made any bigger impression on you than seeing those pictures staring at you out of those newspapers, could it?—A. That is right.

Q. You understood what that meant all right, seeing those pictures there, and the headline above it or the title above it stating that they were saboteurs; you knew what that meant, didn't you?—A. Yes, sir.

Q. No amount of additional reading in the newspapers could make that impression any clearer to you, could it?—A. No, sir.

Q. During this two weeks or more that you were waiting there, didn't you think that maybe on reflection you ought to tell the authorities what you knew, if you knew it?—A. I didn't think so far.

Q. (It did not occur to you that that was pretty important information if it was so?

Mr. CORREA. If your Honor please, I object to "if it was so" appended to this question.

Q. It did not occur to you that that was important information, did it?—A. I didn't think so.

Q. You didn't think so. In this interval of a couple of weeks did you make it a point to read the newspapers pretty carefully in so far as they referred to this particular matter?—A. No, sir.

Q. You just read them?—A. I did not read everything.

Q. That is what I mean. You read them but you did not take the trouble to read every little detail?—A. That is right.

Q. None of the things that you told the jury here was the result of what you read and those details that you got from the newspapers?—A. I beg your pardon?

Q. I say you did not get any of this that you have told the jury by reading it in the newspapers?—A. No, sir.

Q. And you don't mean to tell these jurors that you failed to read all that was in the newspapers because you wanted to conceal the fact that some of those details you did get from the newspapers, did you?—A. I did not get any details from the newspapers.

Q. But you still say that however much you may have
376 been interested in Werner Thiel, the fact is you didn't read all those newspapers for all the details about these saboteurs?—A. I did not.

Q. You did not. Were you afraid to read them?—A. No, sir; I was not afraid.

Q. You were not interested, you say?—A. I had no time.

Q. You had no time?—A. And it made me nervous.

Q. I notice that you referred to Werner in your answers as "Thiel". Is that what you called him?—A. I called him Werner.

Q. He was introduced to you by Tony, wasn't he?—A. Yes, sir.

Q. Was that just about the same time that you met Tony?—
A. A few weeks later.

Q. And that was back in 1937?—A. Yes, sir.

Q. So that when you got down to '42 you had known Werner and Tony about the same number of years?—A. Yes, sir.

Q. Were you ever in love with Werner?—A. Yes, sir.

Q. You were? As a matter of fact when he left for Germany you were one of the persons that went down to see him off, weren't you?—A. Yes, sir.

Q. Did you cry when he left?—A. No; I did not.

Q. Were you sorry to see him go?—A. Yes, sir.

Q. Whether you cried or not you were pretty well affected by the fact that he was going away, weren't you?—

377 A. Yes, sir.

Q. Now when you saw his picture in this newspaper on that Sunday, June 28th, you knew he was the same man you were in love with, didn't you?—A. Yes, sir.

Q. Didn't you talk to anybody about it?—A. Yes, sir.

Q. And who was the person that you first spoke to about it?

A. Mrs. L. Kiel.

Q. Was that the person that you were employed by?—A. No, sir; she was a girl friend of mine.

Q. She was a girl friend of yours, and I take it that when you saw this picture of Werner in the newspaper you knew that he was in some trouble?—A. Yes, sir.

Q. Did it occur to you that because of your close relationship with him you might get in some trouble, too?—A. I never thought of it.

Q. There were a lot of people who knew that you and Werner were practically engaged, weren't there?—A. Yes, sir.

Q. So that there was no mystery about that, was there?—A. No, sir.

Q. And yet you say that it did not occur to you that maybe you might get drawn into this trouble that Werner was in?—A. No, sir.

Q. Never entered your mind?—A. No, sir.

Q. Now we come back to the time that you got down to the FBI room. You remember I first thought that you were brought down on the evening of Saturday the 28th of June. You remember that mistake I made?—A. Yes.

Q. That misapprehension or misunderstanding. Now when were you taken into custody?—A. In Greenwich, Connecticut.

Q. And when was that?—A. On the 14th of July.

Q. And that is the Tuesday that you were talking about when we got off on these other things that I have been questioning you about?—A. Yes, sir.

Q. What time was it that you were taken into custody in the early afternoon?—A. The agents called for me. I don't know exactly. Around 12 o'clock.

Q. Around the middle of the day?—A. Yes, sir.

Q. And I suppose they gave you a chance to get something to eat and took you to New York?—A. Yes, sir.

Q. And you got to the room upstairs in this building about when?—A. It was late in the afternoon.

Q. Say about 4 o'clock, something like that?—A. It was later than that.

Q. And then they questioned you, as I understood your testimony, about two hours?—A. Yes, sir.

Q. Now I want to get perfectly clear to this jury whether when you first went in there and you were first questioned you told the FBI men immediately just exactly what you have told the jury here today. Now did you? Or did you hold back some part of it?—A. No, sir.

Q. You told the whole business immediately?—A. I don't know did I the first night.

Q. That is what I want to get clear. Which is the fact, that you stalled around to begin with and then told the story the next day, or that you came right out and told the whole thing immediately?—A. I had been asked about my personal affairs first.

Q. Well, I still ask you whether when you were first questioned by the FBI men you told them what you told the jury here today, or whether you told them that the next day. Now which is it?—A. I don't remember.

Q. You don't remember that. They questioned you that first night about what you knew about Tony Cramer, didn't they?—A. I don't remember.

Q. You don't remember. Was that because you were frightened?—A. No, sir.

Q. They did not do anything to frighten you at all, did they?—A. No, sir.

Q. Is it a fact that from the moment you were arrested you were worried more about Norma Kopp than you were about anybody else?—A. I was not worried about myself.

Q. You didn't give yourself a thought?—A. No, sir.

Q. Now if you held back anything in that first questioning with the FBI men it was not certainly to help Norma

Kopp, was it?—A. I answered everything I had been asked the same night.

Q. Yes; but you told this jury very plainly that you do not remember whether you changed your story from the first time you spoke to the FBI men until the second time on the following day.

Mr. CORREA. Don't answer, please. If your Honor please, I do object to that statement and question by counsel, because it misstates my understanding of the testimony. As I understand it the witness has stated that she does not remember whether she told all of the facts which she stated here on the first night or the first questioning, whatever it was, but she has nowhere stated that she held anything back or that she changed her story, or that she was in any doubt about it. In fact she said several times quite the opposite. I think the question is mis-leading and I object to it on that ground.

Mr. MEDINA. If it is I surely did not intend it that way.

Q. Now I ask you for the last time, did you tell the FBI men when they first questioned you the same thing that you have told this jury here today?—A. Yes, sir.

Q. Now I thought you said a few moments ago that you could not remember whether you had or not. Am I wrong

381 about that?—A. I do not remember when I told it, did I tell the first night or did they ask me.

Q. Then the fact is, as I said, that you do not remember whether you told them that first evening the same thing that you have told the jury here today; isn't that the fact?—A. I did tell the truth, but I don't remember.

Q. Now are you perfectly clear that on that first occasion when they questioned you that you made no writing whatever?—A. Pardon, sir?

Q. You know, writing with a pen or pencil on a piece of paper.—A. Yes, sir.

Q. Do you know what that is?—A. Yes, sir.

Q. Did you do any of that the first time you were being questioned by the FBI men on the afternoon you were questioned by them?—A. I don't remember.

The COURT. Mr. Medina, the grand jury is waiting to report. Is this a good time to suspend; have you finished with this series of questions?

Mr. MEDINA. Well, it is perfectly agreeable to me to suspend now. I had not quite finished with that line of questions, but I see no reason why we cannot suspend now.

The COURT. Then we will take a recess until 2 o'clock in this case.

(Recess to 2 p. m.)

EMMA KOPP resumed the stand.

Mr. MEDINA. I call for the production of the letter from Norma to Tony, which was one of the documents found in the defendant's room.

Mr. CORREA. Is that the one we just gave you a copy of?

Mr. MEDINA. That is the one you just gave me a copy of, pursuant to my request. And I would like to have the translation with it. I just want your copy to put in evidence.

Mr. CORREA. That is the original of the translation of the copy which we gave you [handing paper].

Cross-examination continued by Mr. MEDINA:

Q. I show you a letter and a translation and ask you if you can identify the letter as having been sent by you to Tony, and also whether you can identify the translation as being substantially accurate?

Mr. CORREA. We will concede the translation is accurate.

Mr. MEDINA. It is your translation. But it is all right.

Q. You have not any doubt that this is your letter, have you?—

A. No, sir.

383 Mr. CORREA. We can have the translation subject to check.

Mr. MEDINA. Yes: pursuant to the same arrangement we have had as to all these translations. I offer the letter and the envelope and the translation as a single exhibit.

Mr. CORREA. No objection whatsoever.

(Marked "Defendant's Exhibit D.")

The COURT. That is a letter to the defendant Cramer?

Mr. MEDINA. That is a letter to the defendant Cramer: yes, your Honor.

Q. This envelope on Defendant's Exhibit D is postmarked Westport, Connecticut, June 15, 1942. Is that about the time that you wrote and mailed this letter, Exhibit D?—A. Yes, sir.

Mr. MEDINA. With your Honor's permission, I shall question the witness as to a point or two before I read this to the jury.

The COURT. Yes.

Q. At the time you sent this letter to Tony, of course you had no idea that Werner Thiel was coming to the United States, had you?—A. No, sir.

Q. And Werner Thiel was entirely out of your mind when you sent this letter?—A. Yes, sir.

384 Q. Without taking particular words into account, it is a fact that your disposition, your feeling, toward Tony was in every way friendly when you wrote this letter, wasn't it?—A. Yes, sir.

Mr. MEDINA. I think with your Honor's leave I shall read the letter to the jury. The letter itself is in German, which I do not read, and I do not imagine you gentlemen do, and I merely show you the envelope, not that it is of any particular significance as such, but it has on the back "Emma Kopp, care Mrs. H. E. Tate, Westport, Connecticut," giving the address, and I shall read the letter [reading exhibit to jury].

Q. Do you recall whether you visited occasionally the apartment that was occupied by Tony and Werner together?—A. Yes, sir.

Q. What was the address of that apartment, do you remember?—A. 164 East 85th Street.

Q. And about how long were Werner and Tony living there together in that apartment?—A. About three years.

Q. About three years. Did you go up there often?—A. Yes, sir.

Q. Did you stay overnight there ever?—A. No, sir.

Q. Did you stay there for meals with either Werner or Tony?—A. Yes, sir.

Q. As a matter of fact, you cooked a good many of those meals for them, didn't you?—A. Yes, sir.

355 Q. Did you used to make it a habit of doing that on your days off from your employment?—A. I did daytime work then.

Q. But I say, you went up there and cooked the meals for Werner and Tony on your days off?—A. On my evenings off.

Q. And you did that rather steadily over the three years that they were there, did you not?—A. Yes, sir.

Q. You had occasion to become quite intimate with Werner, didn't you? Saw a great deal of him?—A. Yes, sir.

Q. Do you recall whether you ever had any arguments or things of that kind with Werner?—A. Yes, sir.

Q. You did, did you?—A. Yes, sir.

Q. What were those arguments about?—A. About his personal behavior.

Q. You mean you were jealous of him?—A. No, sir.

Q. Were there ever made any mutual accusations that you thought he was going around with somebody else and he thought you were going around with somebody else?—A. No, sir.

Q. That never came up?—A. He did drink too much.

Q. And were all your arguments with him about his drinking?—A. Yes, sir.

Q. Did you ever have any arguments with him about his attention to any other women?—A. Yes; I had one.

356 Q. And the fact is too, that he remonstrated with you about some man that he thought you ought not to see, didn't he?—A. (No answer.)

Q. Why do you hesitate?—A. I don't remember.

Q. There may have been such instances, but you don't feel sure, is that a way to put it?—A. No; there was a man he thought I had been going out with years ago.

Q. And did you and he quarrel about that?—A. Yes; we did.

Q. What was the quarrel about. I mean how did it happen to come up?—A. Whenever he met the man on the street they start to argue.

Q. Over you?—A. Yes, sir.

Q. You mean these two men were fighting about you?—A. Yes, sir.

Q. Werner Thiel and some other man?—A. Yes, sir.

Q. And you knew about that?—A. That these two always argued; yes, sir.

Q. Well, what was it that Werner Thiel was accusing that other man of doing?—A. He thought I did go out with the man years ago, which I never did. He was jealous of him.

Q. He was jealous of this other man?—A. Of this man.

Q. And was that one of the things that you used to fight with Werner about?—A. Yes.

387 Q. I suppose that came up rather frequently in those years that you were engaged to one another?—A. I have not been engaged to him until he left this country.

Q. Did you have your engagement arranged just a few days before he left?—A. Yes, sir; four days before he left.

Q. Four days before he left. So that as you were engaged to him when he left, you naturally expected him to return?—A. I did not expect him to return during the war.

Q. But you did expect that he would return some time, and that you would be married?—A. Under a new quota.

Q. Under a new quota? Was that the subject of some discussion between you and Werner?—A. We really never did discuss the case very anxious about coming back. I had in mind to go back to Germany to visit and then we would meet.

388 Q. Didn't you really expect to go back to Germany—
A. To visit.

Q. To marry there and to stay there?—A. Not to stay there.

Q. Not to stay there?—A. No, sir.

Q. Did you know that this fellow Thiel was a Nazi?—A. I don't know that he was a Nazi.

Q. Just a kind of a Nazi?—A. He did discuss the daily news.

Q. Discuss the daily news?—A. The news every day, and listen to the radios.

Q. Are you trying to tell the jury that you don't know what a Nazi is?—A. Thiel had been a Nazi.

Q. Oh, he had been a Nazi?—A. When?

Q. But when you got engaged to him he swore off, did he?—
A. He did not swear off.

Q. Well then you became engaged to him you knew perfectly well that he was a Nazi, didn't you?—A. Yes, sir; I did.

Q. And it is not just reading the papers, either, is it?—A. That is right.

Q. You knew from what he told you again and again that he was for Hitler and he was a Nazi?—A. Yes, sir.

Q. Isn't that the plain fact?—A. Yes, sir.

389 Q. Now isn't it true that when you became engaged to him just before he went back to Germany your intention was to go back to Germany as soon as you could and marry him and stay there with him?—A. No, sir.

Q. Didn't you think as a Nazi he was going to be a man of importance in Germany?—A. I know as soon as he would leave the country everything would be over for me.

Q. Let us see if I understand that. You got engaged to him just four days before he left; right?—A. Yes, sir.

Q. And then you say as soon as he left you knew everything was over for you?—A. Yes, sir.

Q. And that meant that you knew you would not even be able to marry him?—A. That is right.

Q. You never became an American citizen, did you?—A. No, sir.

Q. And you tell this jury that when Thiel left you had no intention of going and living with him permanently in Germany; that is what you say, isn't it?—A. I had no intention to go back forever.

Q. No intention to go back and marry Thiel and stay in Germany?—A. No, sir.

Q. You were going to make this country your permanent home, weren't you?—A. Yes, sir.

Q. And at some time you expected Thiel to come back, or didn't you expect him to come back?—A. He did discuss that question once with his friends, and he know^d if he will come back to this country after the war he has to come under a new quota, otherwise he could not enter.

Q. I did not mean to ask you for a conversation. I am asking you about what you yourself were thinking, and I repeat, that it was all over, as you expressed it, when he went back, or did you think he was coming back to marry you here?—A. No, sir; I did not think for him to come back here to marry me.

Q. Your real state of mind was that you considered everything was over between you and Werner Thiel when he left?—A. Yes, sir.

Q. Now did the thought ever occur to you that you might apply for American citizenship after being here all these years?—A. Yes, sir.

Q. But you did not do it, did you?—A. I did take my first papers out.

Q. You did what?—A. My first papers, in 1929.

Q. In 1929 you made your declaration of intention to become a citizen?—A. Yes, sir.

Q. And you filed that somewhere here in New York, did you?—A. In Chicago.

Q. Is it a fact that whatever your intention might have been in 1929, that you later decided not to go ahead with it?—A. I never decided not to go ahead with it.

Q. That is, without making any decision, you just did not go ahead with it?—A. I could not go ahead.

Q. There was something to prevent you from going ahead?—A. Yes, sir.

Q. And what was that?—A. I kept on travelling. I had not

been in Illinois for five years, which I was supposed to be to apply for my citizen papers.

Q. There were three years that you were going up there cooking meals for Werner Thiel and Tony Cramer. During those three years did you move from one family to another as a domestic servant?—A. I beg your pardon, the five years had been in Illinois, and those three years in New York.

Q. But I say I am only asking you about the three years in New York now for a moment, and I take it you say that those three years that you were in New York make three continuous years all right and you raise no question about that?—A. Yes, sir.

Q. When was the first of those three years, can you give us the date, when you started to go up to the apartment and cook meals for Werner and Tony?—A. In September 1938.

Q. September, '38?—A. Yes, sir.

Q. And prior to May 1938, were you somewhere other than New York City or the surrounding—A. In Chicago.

Q. You were in Chicago. So that that you came from Chicago to New York in 1938?—A. That is right.

392 Q. And is it your statement that if you had resided in New York continuously "for five years you would have applied for American citizenship?—A. I would; yes, sir.

Q. That is what I say, you would have?—A. Yes, sir.

Q. If the five years had occurred?—A. Yes, sir.

Q. Now whether you could have or could not have applied for American citizenship, the fact remains, does it not, that in June 1942, you knew that you were not an American citizen, didn't you?

Mr. CORREA. I object.

A. Yes, sir.

Mr. CORREA. I object, if your Honor please, to the form of that question. I think the witness has stated she was not a citizen, and counsel ought not to go on.

Mr. MEDINA. The form is a little argumentative. I merely want to get at the fact.

Mr. CORREA. The fact was stated several times previously I think Judge.

Q. Is it or is it not a fact that in June 1942 you knew you were not an American citizen?—A. Yes, sir.

Q. And you knew at that time, did you not, that you were a native born German?—A. Yes, sir.

Q. And you knew, did you not, that in June 1942, you were what is described here as an enemy alien?—A. Yes, sir.

393

Q. Had you registered as an enemy alien?—A. Yes, sir.

Q. Did the thought cross your mind after you saw Tony arrested

that maybe there was a possibility you might be imprisoned as an enemy alien if you had done something wrong?—A. I beg your pardon?

Q. Did it occur to you after you saw the FBI man take Tony out of the Kolping House that Saturday night, that maybe you might be taken off to prison as an enemy alien?—A. No.

Q. As you saw him taken out by that FBI man did you think at all about the fact that you were an enemy alien and not a citizen?—A. No, sir; I never thought of that.

Q. Did the thought occur to you that maybe it would be a good idea for you to conform your conduct or to do or act in such a way as to prevent yourself being taken into custody as a German-born enemy alien? Did you even think about that?—A. No, sir.

Q. That thought never entered your mind at all at that time?—A. No, sir.

Q. You remember this morning you referred to a copy of the Times of Sunday, June 28th?—A. I did not read the paper that Sunday.

Q. Well, you tell about it in your own way. What was it you saw?—A. The pictures of the eight saboteurs.

334 Q. In what paper?—A. The Times.

Q. On what day?—A. The 28th of June.

Q. What year?—A. 1942.

Q. Now take a look at this and see if this is not the paper that you had reference to [indicating]?—A. Yes, sir.

Q. That is the very page you were looking at, isn't it?—A. Yes, sir.

Mr. CORREA. You better mark that for identification.

Mr. MEDINA. Yes; I ask that this be marked for identification. I think perhaps it may be marked on the outside of the paper. We know that the reference is at the moment to page 30.

(Marked "Defendant's Exhibit E" for identification.)

Mr. CORREA. Put it in evidence if you want to; we have no objection.

Mr. MEDINA. I know when I want to offer things.

Q. Now, you have been very careful to explain that you did not read a word of the printed matter, haven't you?

Mr. CORREA. If your Honor please, I don't think counsel should characterize the witness's testimony, "you have been very careful to explain." We have had a number of such things and I have not objected, but it seems to me now that it has been repeated—

335 The COURT. I don't think it is a very good practice.

Mr. CORREA. To such an extreme that I do interpose the objection.

Mr. MEDINA. Does your Honor rule that I must take the "very careful" out? Then I will reframe it.

The COURT. No; I think it is objectionable. It is telling the witness she has been very careful to—

Mr. MEDINA. I say I am willing to take the "very careful" out and reframe it.

The COURT. You say she has been very careful to refrain from saying it.

Mr. MEDINA. Well, I think, your Honor, your paraphrase of my question has changed the question a little bit, but the verbiage of it is of no importance. I will reframe it.

The COURT. The point is that you say she has been very careful to explain she did not read it.

Mr. MEDINA. If that is the fact, I think I will bring it out. I am entitled to bring it out, and I would prefer with your Honor's leave to reframe the question.

396 Q. Did you not testify this morning that you had not read any of the printed matter on the page of the Times where the picture of these men appeared?—A. I have not read the paper.

Q. And I say you testified this morning that you did not read any of the printed matter on that page. Did you not so testify?—A. Yes, I did.

Q. And the fact is that you did not, as you claim?—A. I did not.

Q. Now I ask you, did you have any reason to tell the jury that you had not read any of the printed matter on that page?—A. I have no reason.

Q. I wonder if you would take a glance at the page now, and look over that printed matter [handing paper]. Just take your time reading it for a few moments.—A. (Witness complies.)

Q. Do you still say that you never read that before?

Mr. CONLEY. I object, if your Honor please, to the question unless the paper is put in evidence, because the implication of the question is that there is something in that exhibit which is contrary to what the witness's testimony has been. I don't know whether there is or not, but I think the jury is entitled to know, if such line of interrogation is going to be pursued, and I have no objection to the question if the exhibit is offered, 397 but I think otherwise it is improper.

Mr. MEDINA. I should rather explain my own purposes myself, your Honor. I have made no claim that there is anything in that paper that contradicts this witness, and I see no reason why I should offer it until I feel that I desire to offer it. Does your Honor?

The COURT. I don't think you are compelled to offer it. I think if the Government think there is no contradiction it may offer it in evidence.

Mr. CORREA. I am willing to offer it right now, Judge, if there is any question about it.

Mr. MEDINA. Do you?

Mr. CORREA. Yes.

Mr. MEDINA. No objection.

(Marked "Government's Exhibit 76.")

The COURT. What page is that?

Mr. MEDINA. That is page 30, your Honor, and I take it the offer is not made as proof of the facts therein, but merely that there is a page of the Times containing that printed matter.

Mr. CORREA. Yes; we will agree we are not offering the newspaper as proof of the facts stated therein, and I will offer so much of the paper as counsel for the defendant wants.

398 Mr. MEDINA. I am afraid this is getting into a sort of a game, your Honor. I do not really like to have that happen in a case like this.

The COURT. You are in the game.

Mr. MEDINA. I think I can play it as good as some of them but I do not like playing games in a case like this.

Mr. CORREA. I don't either, Judge. I wish it had not been started.

Mr. MEDINA. I resent that remark. I started playing no game. I asked the witness a question, and I resent that and ask that that remark be stricken out.

Mr. CORREA. Counsel apparently thinks it is all right to charge the Government with playing games, but—

The COURT. That will be stricken out. Go ahead. There has been very little of that sort of thing in the case, and let us not have any more.

Q. Now to resume, Miss Kopp, did you or did you not ever before this afternoon read the printed matter now in evidence on page 30 of that exhibit?—A. Pardon me?

The COURT. What is the difficulty?

The WITNESS. I do not understand that question.

Q. Don't understand the word "exhibit"? Well, you see this page with the number 30 on it there, don't you?—A. Yes, sir.

Q. You see that on that page there are certain photographs, don't you?—A. Yes, sir.

Q. You see that the balance of that page has printed matter, don't you?—A. Yes, sir.

Q. Did you ever before this afternoon read the printed matter on that page?—A. No, sir.

Q. Now there is no doubt in your mind about that, is there?—A. No, sir.

Q. You did notice on that page a photograph of the man you were engaged to marry, didn't you?—A. Yes, sir.

Q. And yet you tell this jury that you did not take the trouble to read the printed matter when you saw that paper first on Sunday, June 28th?—A. I did not read the paper.

Q. Did anyone read it to you?—A. No, sir.

Q. Was the contents of that printed matter in any other manner conveyed to you on that day?—A. I beg your pardon?

Q. Did somebody else explain it to you and say what was in the printed matter?—A. No, sir.

Q. So that your story is that you saw Thiel's picture there—
A. That is right.

Q. And you did not even take the trouble to read—

MR. CORREA. Just a moment, Mr. Medina. I object to the last question and the witness's answer, and I move to strike it out. It reads "So that your story is," and I submit that is an improper characterization of the witness's testimony, and the witness is testifying under oath and I don't think the witness's testimony should be characterized as "your story."

THE COURT. Substitute the word "statement."

MR. MEDINA. With all due deference to your Honor, I do not choose to do that. I think I am within my rights.

THE COURT. Then I sustain the objection.

MR. MEDINA. And I except to your Honor's ruling.

Q. I understand you have already told the jury that there is absolutely no reason why you should not admit that you read that printed matter if you did read it; no reason in your mind for saying that you did not read it if you did?—A. That is right.

Q. Now when Tony told you that your fiance, Werner Thiel, was in New York, you did not believe him, did you?—A. I did not.

Q. But nevertheless the next day, which was Saturday, you met Tony in order to go with him down to Thompson's, to see if Werner was going to be there?—A. Yes, sir.

Q. Now when you go out, do you sometimes dress up a little bit? Do you understand what I mean by that?—A. Yes, sir.

Q. If a girl wants to go out with her fiance sometimes she makes a little effort to make herself look as well as she can. You understand what I mean by that, don't you?

A. Yes, sir.

Q. Isn't it a fact that you did that on that Saturday morning?—A. I had dressed myself that Saturday afternoon.

Q. But I mean not merely that you dressed yourself. I know you would not go out without putting your clothes on, but I mean you made a special effort to make yourself attractive?—A. Not to meet Thiel. It was my day off, the only day in one month. I wanted to look nice.

Q. And whether you did it for the purpose of impressing Thiel or not, the fact is you dressed up to look your best that day?—A. Yes, sir.

Q. Now before Thiel went back to Germany you knew that he was not an American citizen, didn't you?—A. Yes.

Q. Did you think that maybe he had filed his first papers?—A. I don't remember.

Q. As I understand, what you are telling these jurors, it is that you honestly intended to be an American citizen as soon as you could?—A. Yes, sir.

Q. That there is no doubt about?—A. Yes, sir.

Q. Now did you think that Werner was going to become an American citizen, too?—A. No.

Q. Didn't you know perfectly well that he had never the slightest intention of being a citizen of the United States?—A. I do not know.

Q. You must have talked to him about that when you were going to marry the man, didn't you?—A. No, sir.

Q. Shall we leave it this way: that you never knew one way or another whether Thiel had an intention to become an American citizen, or whether he did not? Is that a fair way to put it?—A. I never heard him say anything about this question.

Q. But I am asking you, Miss Kopp, for the state of your mind, Did you think Werner Thiel was going to become an American citizen or that he was not?—A. If this war had not come I think he would have become an American citizen.

Q. Well, I am referring to the time he went back to Germany, which is a time when the United States and Germany were not at war, and I ask you with reference to that time did you think he was going to become an American citizen or not?—A. I do not know.

Q. You just didn't know?—A. I didn't know.

Q. Did you know this much: that before he left for Germany neither he nor you were in fact American citizens? You knew that, all right?—A. Yes, sir.

Q. Did you know that he had failed to register for the draft?—

A. As much as I knew he told he did register.

403 Q. Do you mean to tell these jurors that there was discussion between you and Thiel on that point?—A. We did not discuss that point.

Q. He never mentioned anything one way or another?—A. Yes; he mentioned once that he has to register up to 35, age of 35, and he is included also.

Q. But whether he did or did not register, he never told you?—A. No, sir; I do not know.

Q. You see I do not like to leave these things in an ambiguous

state, and so I go back; he did tell you that he would have to register, didn't he?—A. Yes, sir.

Q. Now he did not tell you, as I understand your testimony, one way or another, whether he did register?—A. I don't remember.

Q. You don't remember anything about that?—A. No, sir.

Q. So that if he spoke to you on the subject, you have at the moment no recollection of what he said, is that right?—A. I beg your pardon. I do not understand.

Q. You say you don't remember. You remember saying that?—A. Yes, sir.

Q. Now do you mean by those words that today as you sit here, you have no recollection of anything that Werner Thiel told you on that subject?—A. That is right.

Q. Had you ever heard from any source that whether or not Werner Thiel registered for the draft, that there was a time when the draft board was looking for him?—A. I do not remember.

Q. Did you ever hear that at any time from any source anywhere?—A. I do not remember.

Q. You don't remember?—A. No, sir.

Q. If it came to your attention that the draft board or the public authorities here were looking for Werner Thiel, that would be of interest to you, wouldn't it?—A. I don't know.

Q. But he was the man you were going to marry. Wouldn't you be interested to know whether he was going to jail or not?—A. (No answer.)

Q. Don't you understand that?—A. No, sir.

MR. CORREA: I think I will object to that, if Your Honor, please; that this is argument with the witness. The question is if the authorities were looking, would you do this or that or the other. I think that is both hypothetical and argumentative and therefore improper.

THE COURT: I thought the question as I heard it was proper. Will you read it, please.

(Question read.)

MR. CORREA: I think, in turn, that is based on a prior question, if the authorities were looking.

THE COURT: I think the question is all right. Now do you know what the question is, Miss Kopp?

THE WITNESS: Yes, your Honor.

THE COURT: All right. If you will answer it so that the jury can hear you.

THE WITNESS: I do not think that I would be interested.

Q. You don't think you would be interested?—A. No, sir.

Q. Not much. In any event, if anything was told you on the subject it left no impression on your mind, did it?

The Court. Perhaps that word "impression" is a little hard for her to understand.

Q. May we say this, Miss Kopp: that if somebody said something to you about the draft board looking for Werner Thiel, it left no recollection with you? You just don't remember it if somebody told you such a thing?—A. Does that mean now?

Q. What is that?—A. Does that mean in this case or right here?

Q. Right now. Let me ask you another question: are you worried here for fear that you may get mixed up in something if you answer the question one way or another?—A. No, sir.

Q. That is the last thing you are thinking about, isn't it?—A. That is right.

Q. Now I ask you again, if somebody told you at any time
406 that the draft board was looking for Werner Thiel, is it the fact that that has gone out of your mind and you cannot remember whether they told you or whether they did not?—A. I would go and give information about him; that he is not here any more.

Q. If you had heard that the draft board was looking for him, you would have gone and done something about it right away?—A. Yes, sir.

Q. So that the result of your thinking here and hesitating has made you remember, and you answer now that if you heard anything about that, you would go right to the authorities?—A. Yes, sir.

Q. But during the time you were hesitating in answering my questions you were not thinking what would be the best answer for the benefit of Norma Kopp, were you?—A. No, sir; I did not understand the question right.

Q. Do you get the impression that I am using words that are big words and hard to understand?—A. Yes, sir.

407 Q. Referring to Government's Exhibit 76, and particularly to page 30, there is the statement in the first column with the heading or sort of subheading "U-Boats Came Close to Shore." Did you notice that heading in that big black type on that first column [indicating?]. And I am referring to June 28, 1942. Did you notice that?—A. Now I notice it.

Q. No; I am not asking you whether you notice it now. I am asking you whether you noticed that on the day that you saw that picture of Werner Thiel in there?—A. I did not read the paper that day.

Q. I know you said that, Miss Kopp, but what I am asking you is whether you observed that heading there with the words "U-Boats Came Close to Shore"?—A. No, sir. I just looked at the pictures.

Q. But this type which we call bold-faced type, which means big type and big black type, was right alongside of the picture.—

A. I have not seen any printing, sir.

Q. Now it says right under that "Under the cover of night the submarines came within 500 yards of the Long Island and Florida coasts." You did not see that either?—A. No, sir.

Q. And down here a little further down in the paper also in that big black type it has a heading entitled: "Landed in Rubber Boat." You did not see that, did you?—A. No, sir.

Q. And right under that it says: "The first invasion of the saboteurs was at Amagansett Beach, Long Island, last June 13th. The submarine reached the coast at night and surfaced. A rubber boat was put outside." Really, didn't you see that?—A. I have not seen the paper.

By the Court:

Q. Miss Kopp, will you tell us where you saw the newspaper, and under what circumstances? Was it your newspaper?—A. No, sir; somebody else bought it on a Sunday afternoon at 5 o'clock.

Q. How did you happen to look at it at all?—A. A friend of mine owns a restaurant. He went out and bought the Times and he opened it and showed me the pictures. I looked at it and that was all.

Q. Where was it?—A. On 1575 Third Avenue.

By Mr. MEDINA:

Q. Nothing prevented you from going out and buying a copy of that paper for yourself, did it?—A. I was not interested to buy a paper.

Q. You were not interested about a paper. You would not even take the trouble to buy one for yourself, would you?—A. They always is a paper in all my friends' houses where I go.

Q. And you don't mean to leave the impression that you did not have a chance to read this printed matter if you wanted to?—A. I had a chance; but I did not want to read it.

Q. Now I notice right alongside of the picture with the faces of these men, including your fiance Werner Thiel, some more of this big black type that says "Werner Thiel" and then there is a little paragraph just about Werner. Didn't you even notice that?—A. No, sir.

Q. Do you see it right there [indicating] You read English all right, don't you?—A. Yes, sir.

Q. "Werner Thiel"—didn't you see that?—A. I did not read anything.

The Court. Did you have the paper in your hand at the time?

The WITNESS. It was laying in front of me on the bar, your Honor.

Q. Well you had it in your hand looking at it, didn't you?—

A. I did not have it in my hand.

Q. Would not even put your hands on it?—A. No, sir.

Mr. MEDINA. With your Honor's permission I should like to read certain portions of this newspaper to the jury.

Mr. COMLEY. No objection.

Mr. MEDINA. (to jury). You gentlemen will all observe 410 the pictures of these men, with those other pictures there, and then it has "Saboteurs seized—landed by U-Boats." In the first place I do not know whether you can all see those bold-faced prints there, "U-Boats Came Close to Shore. Under the cover of night the submarines came within 500 yards of the Long Island and Florida coasts," and it goes on to describe about that. And there is here a heading again that says "Landed in Rubber Boat," and it tells all about the landing in the rubber boat. And then up here in the first column another bold-faced heading and it says "Group came to New York. With the cases buried the crew of saboteurs came to New York and split up. They had been here a week when the FBI arrested three of them on June 29." And it goes on to describe about that. It goes on also to describe about the money. That describes the Florida group, and then says "The money was not the reward of the German spies. They were promised fabulous sums," and so on, "when they returned to Germany after accomplishing their assignments. They were also authorized to offer similar promises to win cooperation," and so on. "Their instructions were to use the money to bribe Americans." And then up here there is a reference to this William Thomas, the name that was used by Thiel. Also that Herbert Neubauer went to Chicago, a third, Werner Thiel, went to 411 New York and registered at a large hotel as William Thomas. And so over here there is this part just about Werner Thiel. You see there is a little sort of separate part in the paper about each of these men, and here is the one about Thiel. "Born in Essen in 1907, Werner Thiel, known as John Thomas and William Thomas, came to the United States as a youth," and so on and so forth.

Later you ladies and gentlemen can see the whole article. There may be other things in there of a similar nature, but I do not want to take too long going over it. If you gentlemen would like to glance at it I will—oh, yes; you see it says "Saboteurs Landed in U. S. by U-Boats" and equipment they planned to use destroying key war plants, and the whole business is in there.

Q. Now, Miss Kopp, did you take the trouble to notice that this

page 30 was a continuation from page 1 of this issue of the New York Times, Government's Exhibit 76?—A. No, sir.

Q. You did not turn back to see what there was on page 1?

A. No, sir.

Q. On that same subject?—A. No, sir.

Q. I recall that you said after you spent the evening of Friday, June 26, 1942, with Tony you went home. Did I misunderstand that?—A. We both went to the Kolping House.

Q. You both went to the Kolping House?—A. Yes, sir.

Q. There came a time when you both left the Kolping House, didn't there?—A. Yes, sir.

Q. And where did you go after you left the Kolping House?—

A. We did go with Mr. and Mrs. Kiel up to 91st Street and Third Avenue.

Q. Went with Mr. and Mrs. Kiel up to 91st Street?—A. Yes, sir; and Third Avenue.

Q. There must have come some time when you went somewhere for the night, didn't there?—A. We parted and Tony did bring me home.

Q. You parted and Tony brought you home?—A. Yes, sir.

Q. That is just the part I refer to. Now what was home?—

A. I have a room on 248 East 87th Street.

Q. A room?—A. I kept that room while I worked in the country.

Q. What did you keep that for?—A. For convenience.

Q. Well I thought you only came in from Westport about once a month.—A. Yes, sir; I could not take all my clothes along, and for that I kept the room.

Q. You kept the room as a place to keep your clothes in?—A. Yes, sir.

Q. Well didn't that cost you money?—A. Yes, sir.

Q. And you really mean to say these people you were working for would not let you bring your clothes out there?—A. Oh, yes; they would.

Q. But you did not want to do that?—A. That is right.

Q. You would rather have a place to keep them where you hired a room for them?—A. Yes, sir.

Q. Now didn't you have that room for some other purpose than keeping your clothes in?—A. Just for that purpose.

Q. And you only came in once or twice a month?—A. Once a month.

Q. Once a month, and then you would stay up there in that room?—A. Yes, sir.

Q. And all you used it for was just to go up there that once a month and stay there?—A. Yes, sir.

Q. How many years had you had that room there?—A. I just moved in on the end of May, and on the 1st of June I went to Westport.

Q. And before May did you have another room for a similar purpose somewhere else?—A. I worked in Jersey and came in once a month also, but then I had to take a room somewhere, and that is why I thought it cost me just as much to keep a room and then I know where to be.

Q. But I say over this period of a year or so you always had a room somewhere where you kept your clothes?—A. No, 414 this is the first room I had to keep my clothes. When I was in Jersey I had all my clothes with me.

Q. So when you came in from Jersey to spend your night off, why, you just went to a hotel somewhere?—A. To a rooming house with friends.

Q. When this Saturday evening, June 27th, came around do you remember that you and Tony were up in the Kolping House?—A. Yes, sir.

Q. And you remember how the FBI man came in and he took Mr. Tony Cramer away with him?—A. Yes, sir.

Q. Now when Tony was arrested were you sitting with Tony there?—A. Tony had just left our table to another table with card players. He looked at them for about five minutes.

Q. So that when the FBI man came in and arrested Tony you were not with Tony at all?—A. No, sir.

Q. The FBI man would not have any reason under the sun to know that Tony even knew you?—A. That is right.

Q. Because you were over at the other side of the room with some other people?—A. That is right.

Q. When you got that letter from Tony asking you to come in to New York you didn't leave that letter around Tony's room, did you?—A. I beg your pardon?

Mr. MEDINA. May I have that letter [Mr. Goodkind hands paper to Mr. Medina]?

Q. I show you Government's Exhibit 75. That is the letter that Tony sent you [handing to witness]. Do you 415 recognize it?—A. Yes, sir.

Q. Now on the evening of Saturday, June 27, 1942, where was this letter?—A. This letter was in Westport, Connecticut.

Q. So that when the FBI men went up to Tony's room after they arrested him they would not find this letter there, would they?—A. No, sir.

Q. You had it in your custody out at Westport?—A. Yes, sir.

Q. Did it occur to you when the FBI men finally came around and took you into custody that it was mighty queer how they

knew about you if they had not heard about you from Tony?—A. I beg your pardon, sir; I did not understand the first thing.

Q. I say there came a time when the FBI men arrested you too, didn't they?—A. Yes, sir.

Q. And they brought you right down here to this building?—A. Yes, sir.

Q. Now when they arrested you didn't you begin to wonder how they happened to find Norma Kopp?—A. No, sir.

Q. It seemed the most natural thing in the world to you, did it?—A. Yes, sir.

Q. You did not think it was due to anything that Tony had told them about you, did you?—A. I did not think anything.

416 Q. That was one time when your mind was not working?—A. That is right.

Q. In any event you never felt any animosity, any feeling of revenge toward Tony, on account of your being brought into this, did you?—A. I do not understand the question.

Q. That is some more long words—too big for you, are they?—A. Yes, sir.

Q. Do you understand what it means to want to have some revenge against somebody, or is that a word that you do not understand?—A. I understand.

Q. You understand that all right, don't you?—A. Yes, sir.

Q. You understand what it is to be mad at somebody?—A. Yes, sir.

Q. If they do something to hurt you.—A. Yes, sir.

Q. You might want to get back at them?—A. Yes, sir.

Q. You understand that kind of talk, don't you?—A. Yes, sir.

Q. Did you want to get back at Tony for maybe saying something about you that led to your own arrest?—A. No, sir.

Q. That thought never occurred to you?—A. No, sir.

Q. You never blamed any of that upon Tony?—A. No, sir.

Q. How did you think that the FBI men happened to pick you up?—A. I didn't know.

417 Q. Didn't you think about it a little as you were coming down to New York with them in the train and you were sitting there?—A. Tony had my address in his room.

Q. Tony had your address?—A. In his room.

Q. So you thought possibly the reason they came after you was that Tony had given them your name and address?—A. Not given them.

Q. Well, why not?

Mr. CORREA. I think that is argumentative; if your Honor please, "Why not." Especially since the witness has already stated, though I do not know whether counsel heard her—she said something about having the address in his room.

Mr. MEDINA. I understand why you are commenting that way, Mr. Correa.

Mr. CORREA. I don't know what you mean.

Q. Now we come back. Did it not seem to you very natural that Tony should have furnished the FBI men with your name and address?—A. I don't think so. I didn't think so.

Q. You think it is more natural to suppose that Tony would have kept you out of it entirely?—A. Yes, sir.

Q. And that if anybody found out about you the last man in the world to tell them would be Tony Cramer?—A. That is right.

418 Q. So that your only explanation to yourself for their finding you was that when they searched Tony's room they must have found some paper there with your name and address on it?—A. That is right.

Q. And that is what you were thinking?—A. Yes, sir.

Q. That day when they arrested you?—A. I did not think that day when I was arrested.

Q. And as you thought about it later you thought those things up, about Tony not telling about you, and about how they must have found the name and address up in the room?—A. I was not so interested to think about that.

Q. Well I thought you told the jury just a moment ago that you did think that way, namely, that Tony would be the last man to tell them?—A. Yes.

Q. And they must have found a paper up there with your name and address on it.—A. Yes; but I did not worry about Tony being the one to give me name away.

Q. I did not ask you whether you were worried. I was asking you whether or not at the time and on the day you were arrested you thought that Tony would not have given your name and address, but that the Government agents must have found something in his room giving the name and address. Didn't you say that you thought that?—A. Yes.

419 Q. And the fact is, is it not, that you did think that on that day that you were arrested? The words too big for you?—A. No, sir.

Q. Now, what is the answer?—A. Yes.

Q. You did think that on that afternoon of June, or whatever the day was in July, when you were arrested?—A. Yes, sir.

Q. I did not understand clearly from your direct examination whether you left Mr. Tate's in Westport of your own accord or whether you were discharged. Do you know what the word "discharged" means?—A. Yes, sir.

Q. It means fired. Now; did you leave of your own accord or were you dismissed?—A. I left on my own accord.

Q. Did you leave a forwarding address with Mrs. Tate?—A. No, sir.

Q. You were not trying to get away so that you could not be questioned by the FBI men, were you?—A. No, sir.

Q. The fact that you did not leave a forwarding address was just that you did not think about it?—A. That is right.

Q. Is that it?—A. That is right.

Q. Of course if any mail came for you or anybody came out there looking for you, it would be hard for them to find you without a forwarding address, wouldn't it?—A. I did the next day.

420 Q. What is that?—A. I did forward my address the next day.

Q. The next day you sent a forwarding address to Mrs. Tate, did you?—A. No; to the FBI in Hartford.

Q. I take it what you mean in substance to say is that you were registered as an enemy alien and hence you had no right to go from one place to another without informing them, and that when you left Mrs. Tate's you informed the appropriate office of the FBI where you had gone?—A. Yes, sir.

Q. Now do you know what an enemy spy is, or is that one of those big words?—A. I understand.

Q. Are you a German spy?—A. No, sir.

Q. Has anyone ever approached you to be a German spy?—A. No, sir.

Q. Do you know anything about any German spy ring here in this country?—A. No, sir.

Q. Have you had anything to do with German spies one way or another, directly or indirectly?—A. No, sir.

Q. You are absolutely positive about that?—A. That is right.

Q. And you know how bad a thing it is to do such a thing, don't you?—A. Yes, sir.

Q. And yet when Tony told you the things that you say he told you on that evening of June 26th you didn't communicate with any of the public authorities, did you?—A. I did not believe it.

Mr. MEDINA: That is all.

Redirect examination by Mr. CORREY:

One question, or one or two questions, Miss Kopp. You stated that you came down to this building on the 14th of July; is that correct?—A. Yes, sir.

Q. That was the first time you had been questioned by the FBI about this matter?—A. Yes, sir.

Q. And you were questioned that day or that afternoon and evening for a couple of hours; is that correct?—A. Yes, sir.

Q. And then again the following morning?—A. Yes, sir.

Q. There would seem to be some confusion as to whether you told the FBI all of the same things in the first two hours that you told here on the stand?—A. Yes.

Q. And you said you did not remember. Is that right?—A. I don't remember.

Q. Well, do you mean that you don't remember whether or not you told them something that was not true, or you do not remember whether or not your interview covered all of the subjects that have been covered here?—A. I remember I did tell the truth.

Q. Is what you do not remember whether you were asked
422 all of the same questions you have been asked here?—A. That is right.

Q. That is, you do not know whether you were asked all those questions that night or the following morning?—A. That is right; that is what I meant, I did not remember.

Q. Excuse me?—A. That is what I meant, I did not remember.

Q. Did you mean to imply by any answer you gave when you were being examined along that line by counsel for the defendant Cramer, that you had given any statement to the FBI which you knew to be false?—A. No; there was nothing false.

Q. And every time you were questioned you answered the truth as you knew it?—A. Yes, sir.

Q. Is that correct, ma'am?—A. Yes, sir.

Q. Now, ma'am, I believe you stated on cross-examination that when first you were interviewed or questioned at the FBI office you did not sign anything. Is that right?—A. The same night?

Q. Yes; that night.—A. I don't remember that I signed the same night.

Q. Well, do you remember that at some time either on that evening or the following day you did sign a statement?—A. Yes, sir.

Q. And you read the statement before you signed it?—
423 A. Yes, sir.

Q. And that it set forth accurately what you had told the FBI?—A. Yes, sir.

Mr. MEDINA. I object to this, your Honor. I do not see that it is at all relevant or proper on redirect examination, or indeed on direct examination. This is a Government witness.

Mr. CORREA. Your Honor, I am not going to press the point. I thought some point was made here to the effect that the witness had changed her testimony since she first spoke to the FBI, and I have her statement here, and frankly I propose to mark it for identification. So should there be any question it is available.

Mr. MEDINA. I have no objection to it being marked for identification, your Honor.

Mr. CORREA. If counsel is pressing the objection I will desist as

to this line. It seemed to me an appropriate line of redirect in view of the cross-examination, I confess.

The COURT. What is your position, are you marking it now for identification?

Mr. CORREA. I have not identified it yet, your Honor. I was engaged on that when the objection was interposed. May I have it marked for identification?

(Marked "Government's Exhibit 77" for identification.)

424

By Mr. CORREA:

Q. I show you Government's Exhibit 77 for identification [handing to witness], and ask you, Ma'am, is that the statement which you signed on the occasion which you describe?

Mr. MEDINA. I object to that, your Honor. I object to any questions or inquiry with respect to this written statement, as irrelevant and improper.

The COURT. No; I think that is a proper question.

Mr. MEDINA. I respectfully except.

A. Yes; this is the statement, and I signed this.

Q. I direct your attention to the last page. Is that your signature appearing thereon?—A. Yes, sir.

Mr. MEDINA. Same objection.

The COURT. Same ruling.

Mr. MEDINA. Exception.

Q. Will you leaf through it and look at the bottom of each page, and tell me whether or not the initials E. K. appearing on each page were placed there by you?

Mr. MEDINA. Same objection and exception. The tenor of my objection, if your Honor please, is that inevitably these questions will leave an impression, which I do not think it proper to have left. I think the whole subject of any such statement as this is improper and irrelevant. I understand your Honor has

424 A ruled against me on that.

The COURT. Yes; I do rule against you.

Mr. MEDINA. I note an exception.

The COURT. It is not offered in evidence yet.

Mr. MEDINA. I understand, but my point is that these preliminary questions have much the same effect.

425

Q. Have you looked at those initials, Miss Kepp?

Mr. MEDINA. Same objection.

The COURT. The same ruling.

Mr. MEDINA. Exception.

A. Yes, sir.

Q. One further question, ma'am: did the agents of the Federal Bureau of Investigation threaten to cause you to be interned as an alien enemy if you did not—A. No, sir.

Q. (Continuing.) Tell them what they wanted or anything of that kind?—A. No, sir.

Q. Did they make any threats to you?—A. No, sir.

Q. Were you treated courteously?—A. Yes, sir.

Mr. CORREA. That is all.

Mr. MEDINA. No questions.

Mr. CORREA. The Government rests, if your Honor please.

Motion to dismiss indictment and order thereon

Mr. MEDINA. We move to dismiss the indictment on the ground that the Government has not proved facts sufficient to constitute the crime as charged.

The COURT. The motion is denied.

Mr. MEDINA. We respectfully except. Now I think, if your Honor please, I would prefer to start our defense on Monday. It is only a short time that we have. We were going to adjourn at four ten, and I should not want to just get into the preliminaries.

The COURT. I think that is a quite reasonable request. I promised earlier in the week that you would be able to get away by 4:10.

Mr. MEDINA. Yes, your Honor.

The COURT. Then we will adjourn this case until Monday morning at half past ten.

(Adjourned until Monday, November 16, 1942, at 10:30 a. m.)

2427 [Title omitted.]

NEW YORK.

November 16, 1942, 10:30 a. m.

Trial resumed.

Mr. MEDINA. Shall I proceed, your Honor?

The COURT. Yes, Mr. Medina.

Mr. MEDINA. Anthony Cramer.

ANTHONY CRAMER, the defendant, called as a witness in his own behalf, being first duly sworn, testified as follows:

Direct examination by Mr. MEDINA:

Q. You are the defendant in this case, Mr. Cramer?—A. Yes, sir.

Q. Where were you born?—A. In Ollendorf, Westphalia, in Germany.

Q. What sort of a place is Ollendorf, do you remember?—A. Oh, yes; a small town surrounded by mountains; a country and rural town.

Q. And is it a large place with many people, or haven't you

any idea as to about what the population was?—A. It is a town of about eight or nine hundred inhabitants.

Q. And when you say it is rural, you mean it is a farming community?—A. That is correct; yes, sir.

428 Q. I understand that October 5, 1900, was your birthday. Am I right about that?—A. That is right; yes.

Q. Now, what did your family consist of when you were young and living there as a boy in Ollendorf?—A. Well, I had eight brothers and one sister, and my parents died at the age of 72—my mother at the age of 68 and my father died in 1922, and my mother—

Q. Now you are going a little fast for me. I just asked you what family there was there when you were young, and you have gone a little further than that, but I just want to take it step by step. Now you had your father there, and your mother, too, when you were a boy, didn't you?—A. That is right; yes.

Q. How many brothers did you say you had?—A. Seven brothers and one sister.

Q. Seven brothers and one sister?—A. That is right; yes, sir.

Q. Now I take it that during all your youth there in Ollendorf you lived at home with your father and mother and your brothers and your sister?—A. Yes, sir.

Q. That is when you were a young boy?—A. Yes, sir.

Q. Do you remember that?—A. Yes, I do.

Q. Now were you brought up in any religious faith?—A. Hmm-humm; in the Catholic religion.

Q. And that was when you were a boy?—A. That is right.

429 Q. And have you professed that religion and practiced its precepts ever since?—A. I have, yes, sir; ever since.

Q. Do you recall what education you had there in Ollendorf?—A. Well, I went to the elementary school and when I was fifteen I left my town—do you want to know that, sir?

Q. I just want to take it step by step and I want you to just relax and listen to me and answer the questions without trying to tell more than I ask you at the moment. I say you went to school there, and what school did you go to?—A. Well, that is what we call an elementary school.

Q. And that took you up until you were about twelve or thirteen?—A. Fifteen years of age.

Q. And after you left the elementary school in Ollendorf, did you go to another school?—A. Yes, I did.

Q. And what school was that?—A. That was in Muenster, Westphalia. That was a school for forestry economy and agriculture.

Q. And you were there in that forestry school for how long?—

A. For about three years.

Q. When you got through with that forestry school how old were you?—A. I was about 18 then.

Q. About 18?—A. Not quite eighteen.

Q. You remember very well your eighteenth birthday, don't you?—A. Yes, I do.

Q. And that was October 5, 1918?—A. That is correct.

430 Q. So you were not in any forestry school then, were you?—A. Not then; no.

Q. So that if I may guide you a little, you must have been about 17 when you got through with this forestry school?—A. That is correct; not quite eighteen.

Q. What did you do when at the age 17 you just finished your education?—A. Well, I went back home to my father's farm and stayed there for about half a year and then I was called in for military service.

Q. We will come to that in a moment. Now you are back after you left school at your father's farm?—A. That is correct.

Q. What sort of a place was that; a substantial farm or just a little bit of a farm, or what?—A. Well, it was a farm of about 45 acres.

Q. And what sort of work did you do there when you got back from school?—A. Well, I helped my father till the soil and bring in the harvest.

Q. Did the ordinary things that a boy would do around that farm there?—A. That is right; that is correct.

Q. Now that was some time around the latter part of 1917 or the early part of 1918, wasn't it?—A. Hum-hum. That is correct, sir.

Q. Were conditions getting pretty bad there in Germany then?—A. Yes; very bad; the food was getting scarce.

431 Q. When the time came for you to go in the army, what happened then?—A. Hum—well, I was called November 1st, 1918, and I was sent to West Baden, which is the southwestern part of Germany.

Q. Let me ask you about that: I have a little note here that you were first drafted or asked to go into the army in August 1918. Am I right about that?—A. That is correct.

Q. I wish you would explain the thing to the jury in your own way, all this business about your being called into the army, and what happened?—A. Hum-hum. I was drafted in July 1918 and I was reclaimed on account of the farm and because I had five brothers in the army.

Q. I don't think perhaps the jury know what you mean by reclaimed. You mean somebody asked that instead of going in the army you be sent back home for a while?—A. Well, my father was all by himself on the farm, and he could not do the work alone, so

a written statement was sent to the authorities to have me stay on the farm with my father until the harvest was brought in.

432 Q. It did not have anything to do with the fact that you were not yet 18?—A. No; I believe not.

Q. Did they draft people into the German army there even when they were younger than 18?—A. Yes; I was 17 when I was drafted.

Q. After they let you go back home to help your father on the farm in the summer of 1918, did there come a time when you were called back to the army again?—A. Yes.

Q. When was that?—A. November 1, 1918.

J. Just tell very briefly to the jury what your experience in the Germany army was. A. Well, I was sent to Wiesbaden, and we started drilling for about seven or eight days, and I took sick, I had the "flu" then, and I was brought to a hospital, stayed there for about eight days to recover, and by that time the revolution had broken out and I was sent back home, which was November 21, 1918.

Q. And the war was over, too?—A. The war was over then; yes, sir.

Q. After the war was over and you were discharged from the German army as you have stated, what did you do then?—A. Well I went back home again and stayed on my father's farm for another half a year, and then I went to Hamburg.

433 Q. Then you worked there at the farm for about a year, you say?—A. No; not quite a year.

Q. Not quite a year, then you went to some other kind of employment. What was that?—A. I went to Hamburg to Blom & Voss.

Q. To B-l-o-m and V-o-s-s?—A. That is right.

Q. How did you happen to go there?—A. Well, I had an uncle in Hamburg. He was working with the company.

Q. And somebody suggested—A. Yes.

Q. That you might do well in the shipyard?—A. I wrote a letter to him, and he said yes, to come.

Q. Did you work there very long?—A. Yes, for about three years I stayed there.

Q. And what sort of work did you do there?—A. Well, flange turning we would call it.

Q. You were there as a flange turner?—A. Yes, that is correct.

Q. Was that your first experience in iron work of any kind?—A. Yes; it was.

Q. After you had been working there for some little time did you plan to do something different?—A. Well, yes; I directed my attention to America.

Q. Well, how did that come about?—A. My oldest brother's sister-in-law, she had emigrated to this country and she wrote letters which I happened to read, and she liked it very much in this country.—

Q. Is that lady you refer to Elizabeth Maria Schildmeyer?—

A. That is correct.

Q. That was the sister-in-law of your oldest brother?—A. That is correct.

Q. You say you saw her letters that she wrote back from the United States?—A. Yes, sir.

Q. What was the general tenor of these letters that you read?—

A. Well that this country was very much to her liking, and that there were possibilities, and the food was very much lauded and the conditions in general very much praised.

Q. Now what were the conditions in Germany at the time you looked at these letters?—A. Oh, they were chaotic at that time. We had an inflation in Germany and food was still very scarce.

Q. And did it seem to you a pretty hard place for a young man to get along?—A. Yes, it did, certainly; very much.

Q. After you read those letters did you decide that you would come to the United States if you could?—A. Yes, I decided to go eventually to the United States.

Q. What did you do to bring that about?—A. First I wrote a letter to this young Mr. Schildmeyer suggesting my idea that I should like to come to the United States, and she encouraged me in my intentions and said I should go ahead if I could.

Q. How did you get the money to come here?—A. Well, she knew a farmer, a very good friend of theirs, a Mr. Kuenwert, and he forwarded the money to me, or better to a ship's company, to an English shipping company, the Royal-Mail Steam Packet Line, and they provided me with a ticket.

Q. Were your parents and your family people of very modest circumstances over in Germany?—A. Well, yes.

Q. You could not turn to them for the money that was necessary to come over here, could you?—A. No; they could not afford it.

Mr. Murray. May I have those exhibits that I referred to, the ship manifests? I think Exhibit 37 is the first.

(Exhibits handed to Mr. Medina by Mr. Cornejo.)

Q. The time that you are referring to in your present testimony is some time in 1925, is it not?—A. Yes; that is correct. Of course I forgot to mention that I had been working with a mining outfit in my home town for two years, which brings us up to the time of 1925.

Q. Well, now that confuses me a little; I want to get the time straight here. When you got out of the army and worked

436 on the farm for a little while, didn't you?—A. Not on—

Q. Follow me along and we will get to the mining—

A. That is correct.

Q. First you went back to your father's farm?—A. Yes.

Q. And after that you went to the shipyards in Hamburg?

A. Yes.

Q. Was it after that you worked in the mine?—A. Yes; in my home town, Ollendorf.

Q. That is what you forgot to mention?—A. Yes.

Q. So you probably told the jury you worked in the shipyards a little longer than you really did work there?—A. About three years.

Q. So that if we start with 1918 and we take a year on the farm, that is 1919, and we add three years in the shipyard that is 1922—A. That is right.

Q. And a couple of years working in the mine brings you almost up to 1925, doesn't it?—A. That is correct; yes, sir.

Q. So you make that correction in what you stated before?—

A. Yes, sir.

Q. Now before I get into these entries on this ship manifest, let me ask you this: When you decided you were going to come here to America after you had this correspondence with 437 Mrs. Schildmeyer, did you decide you were going to come here for good?—A. Yes, sir.

Q. And why did you do that?—A. Well the conditions in Germany were such that I disliked them very much, and I didn't see any future in Germany.

Q. So that way back in 1925 you made up your mind that you were leaving Germany for good?—A. That is correct; yes.

Q. I notice here in this ship manifest Government's Exhibit 37 that there are questions that were put to you way back there in 1925 on that same subject. For instance it says here "Whether alien intends to return to country whence he came after engaging temporarily in laboring pursuits in the United States?" And you answered that question "No," didn't you? In other words that you did not intend to return.—A. That is right.

Q. After pursuing a temporary employment.—A. Yes, sir.

Q. They ask again also in column 20, "Length of time alien intends to remain in the United States?" and you answered that with the word "Permanent", didn't you?—A. I did; yes, sir.

Q. Thus indicating right in this ship manifest in 1925 that you intended to remain here permanently?—A. Yes, sir.

Q. Now a third question also in that column 20 says, "Whether alien intends to become a citizen of the United 438 States", and you answered that question "Yes," did you not?—A. I did; yes, sir.

MR. MEDINA: I do not think, your Honor, it is necessary for me to show this to the jury. They may take my word for it that those questions and answers appear right in that exhibit.

Q. Now I observe here that there is in this ship manifest another question, "Whether in possession of \$50 and if less how much?" And in the column referring to you it has got down \$25. Is it a fact that when you got here to the United States you did not even have \$50?—A. Well, I do not recall that fact. It is most likely that would be the thing.

Q. If it says here that you did not have \$50 and all you had was \$25, that is likely to be right?—A. It is; yes.

Q. As far as you remember?—A. As far as I remember; yes, sir.

Q. Now I notice also that they ask you here in column 19, "Whether going to join a relative or friend, and if so what relative or friend, and his name and complete address", and you apparently answered that "Friend, Frank Kuennen, Waucoma, Iowa, R. F. 3, St. Lucas." Do you remember that?—A. That is correct. Yes, I do remember that.

439 Q. Is that the same Mr. Kuennen that advanced the money to you?—A. He is; yes sir.

Q. He is the man that was helping you to come over?—A. Correct; yes, sir.

Q. Where is that St. Lucas; is that out in Iowa?—A. It is; yes.

Q. Do you remember who lived there?—A. Well, Mrs. Schildmeyer.

Q. Mrs. Schildmeyer lived there, did she?—A. Yes, sir.

Q. And this Mr. Kuennen was a farmer who was a friend of Mrs. Schildmeyer?—A. That is correct; yes, sir.

Q. When you got here and arrived in New York as shown by this manifest did you go right out to Iowa?—A. Yes, I did.

Q. And when you got out there did you look up this man Kuennen right away and go to work for him?—A. Immediately; yes, sir.

Q. And what sort of work did you do there?—A. Well, I would call it general farm work, doing chores and helping the outdoor works.

440 Q. As a matter of fact, without putting on any airs, you described yourself as a laborer, didn't you?—A. That is correct; that is what I did.

Q. And the work that you did out there was the common labor that a man does with his hands?—A. Yes, sir.

Q. How long did you work there for Mr. Kuennen?—A. For about two years.

Q. And just the same kind of work that you told us about?—A. Yes, sir.

Q. And did you work on any other farm out there?—A. For a short time I worked for Mr. Gerlemann.

Q. That is spelled G-e-r-l-e-m-a-n-n?—A. That is correct; yes, sir.

Q. After that, that brings you down to about what, 1927 or 1928?—A. 1927? At the end of 1927; yes, sir.

Q. This was just before you went to Chicago, wasn't it?—A. Yes, sir.

Q. And do you remember about what year it was that you went to Chicago?—A. Yes, that was 1927, in November or December; I am not quite sure about that.

Q. What got you to go to Chicago?—A. Well, I wanted to see the country and find work in Chicago, get acquainted with America was, and improve my conditions by finding better employment.

Q. You thought you might get something in Chicago that
441 was a little better than this work you had been doing on a farm?—A. That is correct; yes, sir.

Q. You had not been earning very much on that farm, had you?—A. No, sir.

Q. And when you got to Chicago what did you do there by way of your employment?—A. Well, the first time, the first thing, rather, I went to the Kolping House in Chicago and through acquaintances I found employment with a manufacturer—a contractor, rather, Brown, was his name.

Q. And what sort of work did you do there for this man Brown in Chicago?—A. I worked on his buildings as a laborer.

Q. As a laborer in the buildings?—A. That is correct; yes, sir.

Q. And then after that did you take up some other kind of work, still in Chicago?—A. Yes, I got a better kind of job with the Great Lakes Dredging Company in Winnetka, which is not very far from Chicago.

Q. And what were you doing with that Great Lakes Dredging Company?—A. We were building piers. I was working as a blacksmith.

Q. Working as a blacksmith there?—A. Yes, sir.

MEDINA. May I have the citizenship papers, please.

(Same handed to counsel.)

Q. Now you had had a little experience as an ironworker there in Hamburg, hadn't you?—A. That is correct, sir.

442 Q. So you were fitted to go into that sort of work you were doing there in Chicago?—A. Yes, sir.

Q. I notice in this exhibit, which is Government's Exhibit 1, here, that in 1928 you made a declaration of your intention to become an American citizen?—A. That is correct.

Q. Do you remember that?—A. I do remember that, yes.

Q. Do you remember doing that in Chicago?—A. Yes, sir.

Q. How did you happen to do that in Chicago?—A. Well, the facilities were very close at hand.

Q. That is, while you were out on the farm you did not have much chance to make a formal declaration that you wanted to be a citizen?—A. That is correct.

Q. When you got to Chicago, there was an opportunity to do it?—A. Yes, sir.

Q. And that was the first opportunity you had, wasn't it?—A. That is correct.

MR. MEDINA. Now, with your Honor's permission, and you may recall when the exhibits were offered, I asked your Honor—

MR. CORREA. No objection.

MR. MEDINA (continuing). Whether I should read parts then or wait until our case, and you indicated to wait until our case, so I should like to read part of this now with your Honor's permission.

443 The COURT. Go ahead.

MR. MEDINA. You gentlemen will remember that this copy of the citizenship papers was produced by the lady who was the clerk there, and one of the papers is this declaration and it says (reading): "I, Anton Cramer" and so forth.

Q. By the way, Mr. Cramer, some of the papers here say "Anton" and yet your name is given here as Anthony. How about that?—A. Well, I changed that later on as Anthony. I liked that better.

Q. You liked Anthony better than Anton?—A. Yes, sir.

Q. Is it really about the same name?—A. It is the same name, only in English we say Anthony.

Q. Well, I would not call that a change myself. In German it is Anton and in English it is Anthony.—A. That is correct; yes, sir.

(Mr. Medina continues reading.)

MR. MEDINA. I notice it says here "I was born in Arobahr, Germany." I think that is a little misprint.

Q. How about that?—A. It is Ollendorf.

Q. We might as well clear that up. I don't think it is Ollendorf at all. There is another manifest that gives us a little clue here. There are two Cramers on this page and that is what

444 fooled me for a moment. In this first manifest you have down here under the question: "Name and complete address of nearest relative or friend in country whence alien came," and you have written here "Mother, Maria Cramer, Ollendorf," and then it reads "Krs." and "Arnsberg."—A. Oh, that is the provisional town.

Q. In other words, if you said "Ollendorf, in the County of Arnberg," that would be about what it meant?—A. That is right.

Q. So that Arnberg is the subdivision or county in which the little town of Ollendorf is situated?—A. That is right; yes, sir.

Q. Can you tell us from that that this wording here, "I was born in Arobahr, Germany," is a misprint for this county of Arnberg I have just referred to?—A. Hum-hum, most likely that is what it is.

Mr. MEDINA. I will continue the reading [reads];

Q. Now, Mr. Cramer, when you signed the paper containing that statement in it, did you sincerely and honestly mean to renounce any allegiance to the German Reich?—A. Yes, sir.

Q. Back in 1928?—A. I did; yes, sir.

Mr. MEDINA. I continue the reading [reads];

Q. Now did you mean everything you put in that statement, Mr. Cramer?—A. Yes, sir; I did.

Q. There was not any war on then, was there?—A. No, not that I recall.

445 Q. That is 1928. Now we have got down to the place where you were working for that Great Lakes Dredging Company, and I ask you what you did after that?—A. After that I went to South Bend—Hammond—to South Bend.

Q. To South Bend, Indiana?—A. To the Studebaker Company.

Q. Indiana?—A. Correct.

Q. The time you went to the Studebaker Company in South Bend was about when, 1929 or 1929?—A. In December, 1928.

Q. 1928?—A. That is right.

Q. Just about the good old days before the depression came on?—A. That is correct; yes, sir.

Q. And I suppose there was plenty of work out there at South Bend, wasn't there?—A. Yes, there was.

Q. How long did you work out there in South Bend for the Studebaker Company?—A. Well, it was a rather short period; for about six weeks.

Q. And then you found a chance to get other work that you felt might be better?—A. Yes, sir; Detroit looked very attractive to me and I went to Detroit.

Q. This brings us to 1929, doesn't it?—A. That is right.

446 Q. Detroit looked attractive to you, so you left the Studebaker Company at South Bend and went to Detroit?—A. That is correct; yes, sir.

Q. What had you been doing for the Studebaker Company?—A. I worked as a die fitter.

Q. Die fitter?—A. Yes, fitter; which is ironwork, rather rough ironwork.

Q. Were you all this time accumulating experience in different kinds of ironwork?—A. Yes, I was.

Q. And when you went to Detroit, what did you do there?—A. Well, I went into the same line as die fitter again.

Q. And did you work for some of the automobile companies in Detroit?—A. Yes, sir; for the Dodge Brothers, automobile manufacturers.

Q. Did you just work for the Dodge, or some of the other companies there?—A. Yes, and after I worked there for about half a year, I worked for Briggs Manufacturing Company.

Q. Yes, and I have a little note here about Chrysler. You worked for Chrysler, too, at or about that time, didn't you?—A. Yes. After I worked for Briggs, I worked for Chrysler.

Q. How did you happen to go from Dodge to Briggs and from Briggs to Chrysler?—A. The die making season is very short, you know. They usually work three or four months or five months in the year, and so it happens that the different companies
447 have different kinds of work; that is, for two or three months you can work for Dodge and then you may go to Chrysler or some other company.

Q. It has nothing to do with anything wrong you did in any of those places?—A. No, sir.

Q. That brings us, I suppose, pretty close to the time that we all remember in the Fall of 1929, doesn't it?—A. It does, yes.

Q. When the depression hit, what happened to you?—A. Well, as a die fitter and die maker I got laid off. There was no more work to do.

Q. No more work out in Detroit?—A. No.

Q. Then what did you do?—A. So I went to New York City. I thought I might get employment here.

Q. When you came here, what kind of employment did you get?—A. Well, the iron branch was completely dead, so I got work with a painting contractor as a painter's helper.

Q. Isn't it a fact that you went around from one little thing to another, trying to eke out a living here in those days?—A. That is correct, yes, sir.

Q. Doing a little painting here and a little handy man job there, and things of that kind?—A. That is correct.

Q. How long did that keep up?—A. Until 1933.

Q. Until 1933?—A. Yes, sir.

Q. Now that is quite a time, so I think I had better
448 go back and clarify it a little. Can you tell the jury a little more particularly just what these jobs were that you had in that period from 1929 to 1933 or 1934?—A. Yes, sir. I worked

as a die maker and die fitter in Detroit and from there went to New York in 1930. A friend of mine, by the way, had left Detroit and was in New York, and he wrote me to come down here and being here I found that the iron branches were completely dead, you know. There was no more work to be had, at least not for me, so I did some painting, started painting, and got into the painting branch, and did that for about two years and a half.

Q. That is this painting around in apartment houses and things of that kind, lasted as long as two or three years?—A. Yes, sir.

Q. And while I am coming back to Mr. Werner Thiel, isn't it the fact that you met him while you were out in Detroit?—A. I did. I met Thiel in 1929 in Detroit.

Q. That is the first time you ever laid eyes on him?—A. That is correct; yes, sir.

Q. So that I will go on about your employment and we will come back to Mr. Thiel in a few moments: when you got through this sort of work of painting buildings and handy jobs and things of that kind, where did you go then?—A. Well, then I went to Hammond, Indiana.

449 Q. How did you happen to go out there?—A. I had a friend in Hammond who worked as an engineer in a hospital.—

Q. When you say an engineer in a hospital, I wish you would try to explain to the jury what that means, because I have a different idea of an engineer I think from you.—A. Well, this is the so-called stationary kind of engineer, the kind of engineer who is the equivalent of a building superintendent, I would call it.

Q. A man working down in the boiler room?—A. In the boiler room, yes.

Q. In the hospital?—A. That is correct, taking care of the boiler room. And he wrote me that he had a good job for me, and a steady job, too, so I did not hesitate very long. I accepted the offer and went to Hammond, Indiana, in 1933, in July I believe it was.

Q. When you say you did not hesitate very long, you mean in effect that you were mighty glad to have a chance and snapped at it, didn't you?—A. That is correct; yes, sir.

Q. When you got out there what kind of a job did you get?—A. Well, I helped as a mechanic and a fireman, both things together.

Q. Had you ever done any work of that kind before?—A. No, not in that particular line.

Q. Well, you have not left anything out in telling
449A the jury of these various things you did, have you?—

A. No, sir.

Q. So this was the first time you ever did any work of that kind?—A. That is correct; yes, sir.

Q. And that was in a hospital there in Hammond, Indiana?—

A. In the hospital, Hammond, Indiana; yes, sir.

Q. What was the name of that hospital?—A. St. Margaret's Hospital.

450 Q. Did you stay there long?—A. Yes, I stayed there for three years.

Q. And where did you live?—A. I lived right in the hospital; in St. Margaret's Hospital.

Q. You had a little room right in the hospital there?—A. That is correct; yes, sir.

Q. You did not have to pay anything?—A. No, sir.

Q. For renting any room to live in. You got that free, didn't you?—A. That is correct; yes, sir.

Q. Now do you recall when it was that you left your employment in that hospital?—A. In June 1936.

Q. You had a pretty good job out there, didn't you?—A. Yes.

Q. How much were you making?—A. I made \$75 and everything free, a month.

Q. \$75 a month?—A. Yes.

Q. That was a pretty good job for you, wasn't it?—A. Well, it was.

Q. Well, whatever got you out of there?—A. Well, I wanted to see my folk back home in Germany, so I went back to Germany in 1936.

Q. I know, but before you got back to Germany to see your folks you had something to do with a delicatessen business down in Florida, don't you remember that?—A. No, that was later on, sir.

451 Q. Oh, that was later on after you got back from your visit abroad?—A. Yes, sir.

Q. So after you had been there in St. Margaret's Hospital for three years or so was when you wanted to go back home, and you did go back home?—A. Yes.

Q. And when you got back to Germany—and I will come back to that, because I am going over your various jobs—the next job you had of employment after the hospital was what?—A. It was in a delicatessen store in Florida.

Q. Well how did you happen to get into that?—A. I had an acquaintance who happened to be in Fort Myers, and he wrote to me that he could use a partner.

Q. Do you remember the name of that acquaintance?—A. Yes, sir; Hubert Thielmann.

Q. That is the man that you wrote one of these letters to?—A. That is correct.

Q. That was put in evidence here the other day: isn't it?—
A. Yes, sir.

Q. The man you were asking about the money that he owed you?—A. Yes.

Q. That was the same Hubert Thielmann, wasn't it?—A. The same person; yes, sir.

Q. When he wrote to you what did he say about wanting a partner?—A. Well, he said that during the season in
452 the wintertime there would be a good chance for me to make money and to get acquainted with a new kind of business.

Q. Did he say anything about putting any money in?—A. Yes, sir.

Q. Had you been able to save a little money by this time?—
A. I had saved about \$300 and—

Q. And did he say anything about, or did someone else suggest, having another partner besides you?—A. Well, at that time Werner Thiel was with me in the St. Margaret's Hospital and he suggested that perhaps there could be two partners used, and that I should write to Thielmann if he could come along, and I did so.

Q. He wanted to get in on that?—A. Yes.

Q. It looked like a pretty good proposition?—A. That is right.

Q. Was the up-shot of this that you and Werner Thiel went down to this place where Hubert Thielmann had the Medication store?—A. Yes, sir.

Q. And did he get you and Werner Thiel both to put up some money?—A. He did; yes, sir.

Q. Tell the jury about that.—A. Well, he wrote us that he needed about \$500. So Thiel being anxious to get in on it, he said that he had a little money and that he would put up
453 \$150 and I should put up the rest, which was about altogether about \$320 I believe. So we went down there and gave this money to Thielmann and started in business.

Q. That is \$350 from you and \$150 from Werner Thiel?—
A. That is correct.

Q. You were kind of happy about that, weren't you?—A. Yes; it looked like a good proposition.

Q. And what happened when you got down there?—A. Well, the business looked very discouraging.

Q. Well, isn't it a fact that you lost the money and the thing broke up, and you had to come back?—A. That is correct.

Q. Wiser and sorrier?—A. That is right. We did; yes, sir.

Q. Did Thielmann at that time acknowledge that he owed you that money?—A. Yes; he did.

Q. So that later on you got some evidence of that indebtedness from him, didn't you?—A. I did; yes.

Q. A note or something of that kind?—A. Yes, sir.

Q. Now that brings you back here about when?—A. To May 1937.

Q. So you got back from your trip to Germany and then you went down with Werner Thiel to this delicatessen venture in the latter part of 1936, and you are back in New York again in '37?—

A. That is correct; yes, sir.

454 Q. What did you do then?—A. Well, I secured employment with the Pepsi-Cola Company, being in New York.

Q. What were you supposed to do there?—A. As a maintenance man.

Q. Working in the boiler room?—A. No; this was painting over the building and looking over things so nothing would be destroyed, or rather, you know, keeping the thing in trim, the building.

Q. As a matter of fact over all these years did you have any substantial periods of unemployment?—A. No, sir.

Q. You had a job of one kind or another all this time?—A. I had; yes, sir.

Q. When you worked as a maintenance man there with the Pepsi-Cola people in 1937 did you feel satisfied with that?—A. Well, yes; it was a pretty good job.

Q. What did you leave it for?—A. Well, I got dismissed there because they were moving to a new factory and there was no longer work for us.

Q. So you were out of a job again?—A. That is correct.

Q. Due to no fault of your own?—A. No.

Q. What did you do then?—A. Well, then I worked as a salesman for the Century Metal Company selling Silver Seal.

Q. But you had not had any experience as a salesman, had you?—A. No; but I tried.

455 Q. Well how did you get into that?—A. Through the Times. There was an ad in the Times, they were looking for salesmen, and that anyone could do it if he applied his energies hard enough.

Q. Oh, they said in the ad you did not have to know anything about it, just come around?—A. Something to that kind; yes.

Q. Well, what kind of stuff were you going to sell?—A. Well, they were kitchen utensils, pots and pans.

Q. Did you remember the name?—A. Yes; the Century Metal Company.

Q. No; but the name of this kitchenware you were going to go around and sell?—A. Yes; Silver Seal.

Q. Silver Seal, a sort of patented name.—A. That is correct.

Q. That sounded pretty good to you?—A. Well, it sounded pretty good; yes.

Q. In any event you answered the ad and you started now being a salesman?—A. That is correct.

Q. What happened to that?—A. Well, it was rather difficult to make a somewhat decent living and I—

Q. Yes; you might have known that before you went into it, mightn't you?—A. I should have, but I didn't.

Q. How long did it take you to find out that you could
456 not make a living selling Silver Seal kitchenware?—A.

Well, I tried for about three months and then I quit it.

Q. What did you do then?—A. By that time I got a job with the Modern Art Craft Company. They were working for the World's Fair.

Q. The World's Fair was going up and it was another temporary sort of thing there; is that correct?—A. That is right; yes.

Q. You knew when you went into it, it was not going to last any long time, didn't you?—A. I knew that; yes.

Q. Why did you take that job?—A. Well, my money was getting low and I had to take it.

Q. You had to take it, you did not have any option, did you?—A. That is correct.

Q. How long did you work there in the World's Fair?—A. I would say about a year.

Q. That brings us to about when?—A. To 1939.

Q. To 1939?—A. Yes, sir.

Q. And when the work at the World's Fair was over you were looking around for another job, weren't you?—A. Yes; by that time I had applied for my engineer's license, you know, to work in a boiler room.

Q. Tell the jury what you had been doing about that over this period of years that had been elapsing.—A. Well, in Ham-
457 mond, Indiana, I started studying steam and electricity in order to be able to work myself up, and in Indiana I had secured the engineer's license and—

Q. How do you mean, you worked for that? Did you go to classes, or did you study home?—A. I studied home. I had books.

Q. Down in your room at the St. Margaret's Hospital?—A. That is correct.

Q. You had these books, and studied them so you could a license as a stationary engineer?—A. That is correct; yes, sir.

Q. And you did get that out there in Hammond, Indiana?—A. Yes, sir.

Q. What else did you do later to get a similar license here in New York?—A. Well, I studied. I kept on studying and applied to the City Hall, that I wanted to take the examination as an

engineer, and finally I got called down and got my engineer's license, and by that time—

Q. Was it in connection with that work that you had this drafting board that has been described by some of the witnesses, that was in your room?—A. Well, yes. You know that, of course, is another thing for a mechanical engineer. I wanted to become a mechanical engineer.

Q. Oh, you wanted to become a mechanical engineer?—A. That is correct.

Q. In addition to a stationary engineer?—A. That is correct.

Q. Tell the jury how you went about that sort of work here, because I don't understand about it and I wish you would tell us.—A. Well, as I said, I studied and finally succeeded to get my license.

Q. How would you know where to get the books and how would you know how to go at it?—A. Oh, I bought a couple of books, you know, appertaining to this very subject of becoming a mechanical engineer, and they gave you further hints how to advance and how to gradually come to the point.

Q. So you would be up there in your room studying these books after you performed your regular work?—A. That is correct.

Q. How long did you have to do that work and plod along before you were able to get the certificate in New York?—A. Well, I had been at it for about five years.

Q. Five years?—A. Yes, sir.

Q. The fact that you had a certificate from Hammond, Indiana, did not do you much good here, did it?—A. No; I had to study it all over again.

Q. You had to do it all over again?—A. Yes, sir.

Q. That brings us down to 1839, when the work was over at the World's Fair, and what employment did you go into then?—A. Then I got a job with the Peck Memorial

459 Hospital as an engineer.

Q. Down in the boiler room?—A. Yes, sir.

Q. How long did that last?—A. That lasted for about six weeks, and meanwhile I had joined an organization of steam engineers, the National Association of Power Engineers, and through acquaintances I got a different, a better job with the National Licorice Company.

Q. The National Licorice Company?—A. That is correct.

Q. What was the nature of your job with the National Licorice Company?—A. Taking care of the boilers and of the machinery in the engine-room.

Q. How long did you work there?—A. I worked there for somewhat more than two years.

Q. That is from the time you left the Peck Memorial Hospital until the time you were arrested in this matter that is now being tried?—A. That is correct; yes, sir.

Q. And how much a week were you making in the job with the National Licorice Company?—A. \$15.

Q. Just beginning to get along, were you?—A. Yes, sir.

Q. After all these years of plugging.—A. Hum-hum. Yes, sir.

Q. Now go back over all these jobs that you told about. Was there ever a time when you were discharged for any wrongful conduct on your part?—A. No, sir.

Q. Was there ever any time when you were discharged
460 for incompetence, insolence or anything that you had done wrong yourself?—A. No; I was not.

Q. Never once in all these years?—A. Never.

Q. Is it a fact that in going from job to job in the way you did, the circumstances that led you to leave one job and go to another were entirely beyond your own personal control?—A. Well, yes; sometimes they were and at other times I was urged to take another job to learn, to get more experience.

Q. But never in any of the times that you went from one to another was there any relation to any wrongful conduct on your part whatever?—A. No, sir; never.

Q. Now was there a time some time in 1941 when you made some other effort to perhaps earn more money?—A. Yes; there was.

Q. What was that?—A. I tried to get employment with the Navy Yard.

Q. Did you apply there for some particular kind of a position?—A. Yes, sir; I did.

Q. And what was that?—A. A shipwright.

Q. What was the up-shot of that application?—A. Well, I was called in and examined, and finally when I was hired and I found out that a shipwright is a woodworker, in which line I have no experience at all, so I did not take the job.

Q. That is, you were experienced in iron work?—A. Yes;
461

Q. When you say you were examined, where did that examination take place?—A. In the Navy Yard.

Q. Was that the only occasion that you were ever in there?
A. Yes; it was.

Q. Did you go there and undertake any employment, actually work there, ever?—A. No; I never did.

Q. So that when you found that the shipwright business was wood working instead of the metal working that you speak of, did you ultimately abandon the thought of going there?—A. No; I wrote a letter immediately the next day to the manager of the employment office, that there was a mistake, that I thought that a shipwright was an iron worker.

Mr. CORREA. May the date of this be fixed, counselor?

Mr. MEDINA. Well, I can only tell by that paper that you found up in the room there; that is my only—

Mr. CORREA. The witness could probably tell.

Mr. MEDINA. If I may have that little piece of paper or whatever it was.

Q. I have a paper here which I call to your attention, and you will notice that this paper has the date 1/9/42 on the top (handing to witness), because Mr. Correa asked me to help fix the date. Now do you recall what happened? Go right ahead with your story. You were telling us about the letter that you wrote?—A. Well, I wrote a letter stating that there was a mistake involved and that I would apply as a flange turner, which was the thing that I could actually do, and I have not been receiving an answer to that letter.

Q. But you did in the course of time receive this communication that I have shown you?—A. That is correct.

Q. And you never did appear there or report for work or do anything of that kind?—A. No, sir.

The COURT. What was the date on which you applied for this job first, January 9th did you say?

The WITNESS. I believe it was in August 1941.

The COURT. In August 1941. What is the date 1/9/42?

Mr. MEDINA. This communication here, which is really of no moment in the case, except that it might make some confusion, and it does not indicate there was anything this witness did in 1942 at all.

The COURT. It was in August 1941.

Mr. MEDINA. That is right.

The COURT. He applied for the job in the United States Navy Yard?

The WITNESS. Yes, sir.

Mr. MEDINA. That is right.

By Mr. MEDINA:

Q. You have stated here that you met Werner Thiel in Detroit in 1929. Do you remember that?—A. Yes, sir; I do.

Q. Was he of the same religion as yourself?—A. No; he was a Lutheran.

Q. Do you know where his family came from?—A. Yes; I do.

Q. Where was that?—A. In Dortmund.

Q. That is D-o-r-t-m-u-n-d?—A. That is right; yes, sir.

Q. Where was Dortmund?—A. Dortmund is a city in Westphalia, about 14 miles from my home town.

Q. About 14 miles from your home town in Germany?—A. 14, that is correct.

Q. Did he tell you anything about the circumstances of his family in Dortmund?—A. Yes; he did.

Q. What in substance did he say? I do not want too much detail, but just give a general statement of it.—A. His father is a building contractor, and he has about five or six brothers and a couple of sisters, and he comes from what I call a rather well-to-do family.

Q. A rather what?—A. Well-to-do family.

Q. A rather well-to-do family of Dortmund?—A. Yes.

Q. Certainly from what he told you their circumstances were far better than the circumstances of your father and mother?—

A. Yes, sir.

Q. Did he tell you how long he had been there before you met him in Detroit?—A. Well, he had been in Detroit
464 a very short time. He came from I believe Flat Rock, Michigan, the Ford Oglethorpe Company there.

Q. Did you see very much of him when you first met him in Detroit?—A. Oh, yes; we did.

Q. How did you happen to meet him there; do you remember where you met him?—A. I do.

Q. Where was it?—A. It was in the Kolping House.

Q. Is this Kolping House you refer to again and again a sort of Catholic Y. M. C. A. for German people?—A. I might be classified like that.

Q. Well you have told me it was kind of a Y. M. C. A. didn't you?—A. Yes, sir.

Q. It has the same general idea behind it?—A. It has; yes, sir.

Q. You met him then at this Kolping House, and I wish you would describe to the jury what your relations with him were there in Detroit when you first knew him.—A. Well, at that time Thiel was a man of about 22 or 23 years old, a rather young fellow, and he looked a little lost at that time and so I took to him, we became friends, and we both knew how to play chess, you know, and that I believe strengthened our friendship a little at that time. We played chess together quite a bit.

Q. Did there come a time when you came to New York and he stayed at that time in Detroit?—A. Yes; sir. I
465 went to New York in 1930 and about three quarters of a year later or ten months, I am not sure about that, Thiel also emerged in New York.

Q. Did you correspond with him in the interval?—A. No; not then.

Q. And when he came to New York where did you see him?—A. The first time I saw him in the Kolping House.

Q. At the Kolping House in New York?—A. That is correct.

Q. And at that time is when you were doing this painting in

these apartment houses that you have told about, isn't it?—A. That is correct; yes, sir.

Q. That was just about when this depression got going, in 1930, wasn't it?—A. Yes; it was.

Q. 1929, 1930, and 1931 is about that time. Well, after Thiel got here to New York did you see more of him then?—A. Yes.

Q. Or less, or what?—A. We saw each other a couple of times each week. He came to the Kolping House quite frequently, and at that time I lived in the Kolping House.

Q. You were living right there at the Kolping House, were you?—A. Yes, sir.

Q. Where was he living?—A. That I am not quite sure; some place in Yorkville. I don't know quite where it was.

Q. Do you know what he did for a living about that time, 1930 and 1931?—A. Well, at one time he worked as a porter in the Jewish Infirmary Home, Old People's Home, rather, 105th Street, the West side.

Q. Perhaps it won't do any harm if I lead you a little bit here. Thiel was having a pretty tough time then, wasn't he?—A. Yes; he was.

Q. Doing jobs as handyman and porter, and whatever he could get?—A. Yes, sir.

Q. Did he have occasion then to borrow any money from you?—A. Yes; he did.

Q. I suppose you did not have very much in those days to lend him, did you?—A. No; I did not have much myself.

Q. Is it a fact that however the circumstances may have been these you did make small loans to him at about that time?—A. I did, yes, sir.

Q. Were those paid back to you later?—A. They were paid back; yes, sir.

Q. Was there anything that occurred at about this time that interested Thiel in something that perhaps you did not take the same interest in?—A. Well, yes; I believe there was. He got interested in the Friends of New Germany at that time in New York.

Mr. Cramer. May I ask what time?

Q. Now in 1930 in New York City we are talking about, in fact, aren't we?—A. Yes, sir.

Q. We are not talking about 1934 or 1945 in Hammond, Indiana. We have not got to that yet.—A. Hum-hum.

Q. And so I say what was it that Thiel got interested in here, right here in New York, in about 1930, that you did not take the same interest in, if any? Did he get interested in these Nazis at about that time?—A. Well, yes; that is what I said. That was at the end of 1932 or 1933.

Q. Oh, as late as that?—A. Yes.

Q. Did he tell you that he went around to meetings and things of that kind or what did he tell you?—A. He spoke very little to me about it.

Q. But the fact is, you knew at that time that he was becoming interested in this Nazi business, didn't you?—A. Yes, sir.

Q. Now did you get interested in it in the same way?—A. No; I did not.

Q. Well, why not?—A. Well, I had other things to do and I never got acquainted with it anyway. I did not have interest in it.

Q. But he did?—A. He did; yes.

Q. I want to pursue that just a little bit further. As a matter of fact, didn't you have some discussions with Thiel on that subject back there in 1931, 1932, and 1933?—A. Oh, yes; we were quite a bit discussing things and Thiel was more or less a man antagonistic to any kind of religion, I believe.

Q. Well, did you have any discussion about this Nazi business?—A. No; not that I recall. Very little, perhaps. I do not recall the other conversations. We talked quite a bit about history. I was very much interested in history.

Q. I have a little note here that you had some discussion about this and that he or you got very irritated. Do you remember anything about that?—A. Well, yes; he had—he was a man that could get irritated when he was opposed in his subject, in his particular views, particularly about national ideas.

Q. Now coming right out, tell the jury what you mean and don't give us any riddles about it.—A. He was the kind of man that I would say was very strongly attached to certain ideologies, and this was at that time of national socialism.

Q. Well, he was in favor of the national socialist doctrine, was he?—A. Yes; that is it.

Q. And that is Hitlerism?—A. Yes, sir.

Q. And what was it you said when you argued with him there, that he became irritated?—A. Well, as much as I do recall at that time we had a discussion and I argued that it was never worth, that the expansion of a nation was never worth a human life, and he said that it was worth—"You know that

a couple of hundred thousand men could easily be sacrificed for the expansion or glory of a nation," and I was of contrary view.

Q. You did not like that sort of thing, and you were irritated by what he said, were you?—A. Yes, sir.

Q. During the time that you lived at the Kolping House, Thiel was living somewhere else, wasn't he, and you do not remember just where he was living?—A. No; I do not remember.

Q. It was in New York City, of course, wasn't it?—A. Yes, sir.

Q. Now when you went out to Indiana in response to this letter

that you told the jury about, did Thiel go out there too right away?—A. No, sir. He came later. I went to Indiana and he wrote letters to me that he should like to come to the West himself.

Q. Well, by that time you and Thiel were pretty good friends, weren't you?—A. Oh, yes; we were.

Q. And he wrote and you wrote and when you told him what a good place it was he wanted to come out too, didn't he?—A. That is correct; yes, sir.

Q. Well, did you try to help him get a job out there?—A. Well, I wrote him that there was a possibility right where I
470 worked for him to get a job, and he wrote back that he did not have the money to come, so I sent him money. I believe it was a hundred or one hundred and twenty-five at that time.

Q. You loaned him the money to come out there?—A. That is correct; yes, sir.

Q. And did he come out?—A. He did.

Q. Then you were living in this little room at the hospital, weren't you, in Hammond, Indiana?—A. That is correct.

Q. And where was he living?—A. He lived not very far from the hospital in a private home.

Q. He had a room in a private home, you say?—A. That is right; yes, sir.

Q. And did you see a good deal of him there in Hammond, Indiana?—A. Yes; we saw each other almost every evening.

Q. Spent your evenings together?—A. That is right; yes, sir.

Q. Now was it some time when you were in Hammond, Indiana, that both you and Thiel joined this Friends of New Germany there?—A. Yes, sir; it was.

Q. Why did you do that?—A. Well, I would say for social purposes. We thought that we could make a larger circle of acquaintances, and this was the thing made to get it.

471 Q. Who were the people who were in this Friends of New Germany out there in Hammond, Indiana?—A. Oh, they were middle class Germans who worked in factories.

Q. They were factory workers, were they not?—A. That is correct; yes, sir.

Q. And that is the kind of people you and Thiel went around with, isn't it?—A. That is correct.

Q. Did they do any of this drilling with guns and uniforms on and all that sort of business?—A. No; I have never seen that.

Q. This is 1934 we are talking about, isn't it?—A. Yes; that is 1934.

Q. There was not any war going on then, was there?—A. No, sir.

Q. Did there come a time when you decided you did not want to stay in with the Friends of New Germany?—A. Yes, sir; in 1935 I resigned—

Q. What was it that led you to pull away from the organization?—A. Well, at that time there were quite a few things going on which I disliked; swindling; there was a money swindle that occurred in the Bund, or Friends of New Germany at that time.

Q. Now you heard the other day Mr. Willis, on the stand here, testify that you told him that you left the Friends of New Germany because you did not like the marching around and these radical activities, didn't you?—A. Yes, sir.

Q. Didn't you tell him that?—A. I think I did; yes, sir.

Q. Tell the jury what you meant by that.—A. Well, I had heard at that time that they were wearing long boots and a particular design uniform, and all that, that they were doing in Chicago and New York quite a bit of marching, and I was opposed to that kind of thing and I thought that should never go beyond any social circles; any social activities, rather.

Q. As a matter of fact you were all this time working there to be a stationary engineer, weren't you?—A. Yes, I was.

Q. That is the very time you were working there to prepare yourself to take the examination?—A. Correct; yes, sir.

Q. In any event the fact is, is it not, that you ceased to belong to the Friends of New Germany some time in 1935?—A. That is correct; yes, sir.

Q. Is it also a fact that while you left the Friends of New Germany in 1934 or 1935, that Thiel continued with them?—A. Yes, sir.

Q. Did he continue to be a member of that organization during all the rest of the time that you and he were 473 out there in Hammond, Indiana?—A. Well, I do not recall the particulars about that, but he continued to be a member, and there came a time when he left Hammond, Indiana, for the West Coast.

Q. Now I am glancing at my notes here because this business of his leaving for the West Coast I do not seem to recall; or did he leave for the West Coast before you left Hammond, Indiana?—A. Yes, he did.

Q. Now you left Hammond, Indiana, to go back to Germany, didn't you?—A. That is correct.

Q. That is the time you went back to visit your family in 1936?—A. Yes, sir.

Q. So that you worked there in Hammond, Indiana, right up to the time that you left to go back to Germany for a visit?—

A. That is right, sir.

Q. And it was before you left Hammond, was it, that Thiel went out to the West Coast?—A. It was; yes.

Q. And what did he go out there for?—A. He had been working with the Kellogg Construction Company, a job they were doing coming to an end, and he had made the acquaintanceship or friendship of a man named Charlie, who was a pump builder, and he, through this Charlie, got employment on the West Coast in a factory where they manufactured pumps.

Q. So when you got back from your visit to Germany 474 and this delicatessen business came up, Thiel had come back from the West Coast?—A. That is right; yes, sir.

Q. Now when we get down to around 1936, you began to give serious thought to your citizenship matter, didn't you?—A. Yes, sir.

Q. And did you think of that before or after you made this trip to Germany?—A. Well, I was resolved before that, that I would become a citizen of the United States.

Q. Well, you had resolved that as shown by these ship manifests the very time that you came over here in 1925, hadn't you?—A. Yes, sir.

Q. What was it that brought the thing to a head there in 1936?—A. Well, you require a certain length of time to be in one place, and I had never been able to get my citizenship papers because I never stayed long enough in one place.

Q. And then you had been so long there in Hammond, Indiana, that for the first time you complied with that requirement?—A. That is correct; yes, sir.

Q. Tell the jury about this trip that you made to Germany in 1936?—A. Well, I left our country in June 1936 and went to Germany to my parents; to my home town, rather.

Q. Went back to Ollendorf?—A. Went back to Ollendorf and stayed there for most of the time, and during my stay in Germany I went to Berlin for one week for the Olympic 475 Games, and then came back home again and stayed until the end of August and then went back to America.

Q. And when you came back you went back to Hammond, Indiana, of course?—A. That is correct; yes, sir.

MR. MEDINA. With your Honor's indulgence, may I have a short recess, as I just want to glance at these manifests.

The Court. Yes.
(Short recess.)

Q. One of the newspaper men suggested a question to me that I asked you in the beginning: when you came over from Germany, did you have any command of English at all?—A. Well, yes; I studied English in Germany.

Q. And were you able to converse in English when you first got here in 1925?—A. No, sir; I did not understand it.

Q. Had you studied it maybe for the equivalent of what we would call taking a year of English, or a year of some foreign language?—A. Yes; I would say about that.

Q. So that you had a smattering of English when you first came over?—A. I believe that is the right expression; yes.

Q. Now we get around to 1936; when you went back to see your family in Germany, had your English gotten pretty good by that time?—A. Well, I would say fairly well.

Q. Were you constantly trying to improve it?—A. I was then; yes.

Q. As a matter of fact when they arrested you, you had a little booklet in your pocket entitled "How to improve your English," didn't you?—A. Yes, sir.

Q. You had it pretty nearly worn out studying it, too, didn't you?—A. I did; yes, sir.

Q. Now, taking these manifests of your trip to Germany, Exhibit 18 and 19, one referring to your trip over to Germany and the other referring to your trip back, is it not a fact that in each of those manifests you indicated that the United States was your permanent place of residence and that you had come over here to stay and intended to stay and intended to become a citizen?—A. Yes, sir.

Q. So that from the time you first came over here in 1925 when these original manifests were made out, right down to the time that you actually became a citizen, every time you were asked that question in any formal and official way, you answered that you intended to become a United States citizen?—A. I did; yes, sir.

Q. And that you came in the first place with that intent and at all times since intended to become a permanent resident of the United States of America?—A. Yes, sir.

477 Mr. MEDINA. I do not think, Your Honor, it is necessary for me to call the jury's attention to the particular questions and answers in these manifests as I am sure there is no dispute that the fact is as I have stated it.

Q. I think you said you went to see the Olympic Games for a time there when you made this trip in 1936?—A. I did, sir.

Q. Did you spend all the rest of your time with your family; your folks there in Ollendorf?—A. Yes, sir; I did.

Q. Now during that time that you were over there in Germany in 1936, did you have any conversations with any officials or representatives of the German government?—A. No, sir.

Q. Did you have any conversations with anybody directly or in-

directly, that had to do with your taking any task as an agent of the German government?—A. No, sir; never.

Q. Did anybody approach you on such subject?—A. No, sir.

Q. While you were over there or at any other time?—A. No, never.

Q. Now, when you got back you told us you had this delicatessen venture, but I suppose first you went back to your job at St. Margaret's Hospital?—A. I did so; yes, sir.

Q. And it was after you worked there an additional few months that this fellow Thielmann got you to go down to Florida on this delicatessen venture?—A. That is correct; yes, sir.

Q. Now did you say that after that broke up and you lost your money that this Hubert Thielmann gave you a note?—A. Yes, he did.

Q. What did you do with that note?—A. As much as I recall, I kept it in my room.

Q. Now I have inquired of Mr. Willis, and all the papers that they took up in your room there and among them they do not appear to have found that note at all, nor do they appear to have found it in your wallet when they examined the contents of that. Can you imagine what became of it?—A. Well, the last time I have seen it was about, I would say, half a year ago, and it was in my brief case. It bore the heading "Promissory Note."

Q. What do you think happened to it?—A. Well, I don't know. I am quite sure it was in my brief case.

Q. Did you have any occasion to examine it or look at it in this interval of six months?—A. No; I do not think so. I am not quite sure about that.

Q. However the fact may be about the present whereabouts of that note, is it not the fact—that this man Thielmann has acknowledged that he owned you the money?—
479 A. Correct; yes.

Q. There is no doubt about that between you and Thielmann, is there?—A. No, sir.

Q. And isn't it a fact, too, that on the very day you went down to the Corn Exchange Bank you deposited a \$10 check that Thielman had paid you on account of the indebtedness?—A. That is correct.

MR. MEDINA. You have not found that note at all, have you, Mr. Willis?

MR. WILLIS. The Thielmann note?

MR. MEDINA. The Thielmann note.

MR. WILLIS. No, sir.

MR. MEDINA. And as far as you know, there was no such paper up in Mr. Cramer's room or in his wallet?

MR. WILLIS. That is right.

Q. Now after that venture failed and you came back to New York, did Thiel come back with you?—A. Yes, he did.

Q. And where did you live then?—A. We moved to the Kolping House first; that is, I lived there for a short time and then went to St. Nicholas Avenue, a friend of ours, William Henke—

Q. H-e-n-k-e?—A. Yes, sir.

Q. You and Thiel went to live at Henke's?—A. Both of us lived at Henke's.

480 Q. What was that, a sort of rooming house?—A. It was a large apartment and since Henke and his wife did not need it all, they rented out two rooms to us; to Thiel and me.

Q. And did you stay there long; you and Thiel?—A. We stayed there for about four or five months, or even less. I am not quite sure about that. About two or three months. I could not tell.

Q. And that was up in St. Nicholas Avenue?—A. That is correct; yes.

Q. What was Thiel doing at that time?—A. Well, when we came back from Florida, Thiel got a job with the Sossner Brothers downtown, I believe, as a die maker, and from there he went to Philadelphia for a short time and worked as a die maker in Philadelphia, but that did not last long, about five or six weeks, and he came back. His money soon gave out and I gave him some more money.

Q. When you say you gave him some more money, I don't know whether you mean to say that or not, or do you mean to say you loaned him some money?—A. That is correct. I loaned it to him.

Q. You did not give it to him, you loaned it to him?—A. That is correct; I loaned it to him.

Q. Can you fix the time for that?—A. The time I advanced money to Thiel was from 1937 to 1938.

481 Q. No. You are a little bit too broad. You say he came back from Philadelphia and he was pretty hard up?—A. After a few weeks; after he spent the little money that he had saved.

Q. But I am trying to get your mind fixed on the time he came back from Philadelphia and he was hard up. When was that?—A. That would be December of 1937.

Q. Of 1937?—A. Yes, sir.

Q. And that is when you loaned him some small sums from time to time?—A. I did.

Q. About the end of 1937 or beginning of 1938?—A. That is correct; yes.

Q. At that time did you enter those amounts in a little book or were those entries made later?—A. No. At the same time I

gave him the money, as I do recall, I made the entries into the book.

Mr. MEDINA. May I have that book, please, Mr. Willis [book handed to counsel]?

Q. I show you a little blue book and ask you if that is the book that you refer to?—A. Yes, sir; it is.

Q. Now you have opened this book to a certain page here, and I ask you did you make all those entries that appear on that page in pencil yourself?—A. Yes, sir; I did.

482 Q. And when did you put those entries down?—A. Every time I gave him the money.

Q. That is, you put the several entries in, one at a time, and at or about the date that appears there?—A. Yes, sir.

Q. Now don't say that is so if it is not, because I want you to get it right. Don't just follow me. You notice here the first entry with a date on it says "December" and then it apparently has an item of \$16.10.—A. Hum-hum.

Q. Is there some way of telling that is December 1937?—A. It is December 1937.

Q. Is there some way of telling that?—A. Yes, sir.

Q. What is that way?—A. It says "1937."

Q. That is, you put here those numbers "1937"?—A. That is correct, sir.

Q. Did you put those down there at or about the time you made the entries?—A. Yes.

Q. As a matter of fact you had this book up in your room there, didn't you?—A. I did.

Q. So that when the FBI men went up there on the Sunday after you were arrested and took all your things downtown, among other things they brought this book?—A. No, not then; some weeks later.

Q. Some weeks later?—A. Yes.

483 Q. But as far as you know, it was some weeks later?—A. Yes.

Q. In any event, we get down here past December and I see an entry that says, "Jan.," with "1937" after it. Have you any explanation to make about that?—A. Well, yes; I think that was due to a mistake, which has happened to me quite often, that at the beginning of a new year I have dated the old year again.

Q. In other words, you made certain entries in December and you had the "1937" at the top, and when you got to January 1938, by mistake you put "1937"?—A. Yes; it should be 1938.

Q. Now this other writing on the opposite page is also made by you, is it not?—A. Yes, sir; that is made by me.

Q. And that "Witness" there is Mr. Willis's signature?—A. Yes.

Mr. MEDINA. I offer this book in evidence.

Mr. CORREA. No objection.

(Marked "Defendant's Exhibit F.")

Mr. MEDINA. With your Honor's permission I would like to show this to the jury and read it to them.

Now this writing on this side [indicating] is the part I will read in a moment, but it is where he identified the book for
484 Mr. Willis, stating that that was his book and it was all in his handwriting. And over here [indicating] is the part that was in the book in the beginning.

Now you will notice up at the top here it has 1935 with "Werner" and then it has "old" with something I will ask him to explain, but I think it is "debts." I think it is almost fairly clear, \$72.50, and then under 1937 it says "And \$65," and then December "16.10" and then a ditto mark and \$19.10; another ditto marked \$23.10, another ditto marked \$23.10 and another ditto mark \$30.10, all being in December, and then "January 1937," which he explained he meant 1938, there is \$5.10; in January \$12.10, \$19.10, \$26.10; all in January; and they add up to \$145, and then he takes \$72.50 and adds to it because that was the amount of the 1935 advance, and it makes a total of \$217.50.

I will bring the book around here so you gentlemen at this end can see how that is, too. You will see these figures are all put there contemporaneously, as he testified, and I will read this part on the opposite page where it says "August 12, 1942. I hereby identify the writing on the opposite page as having been made by me. The figures listed on the opposite page indicate various sums of money loaned by me to Werner Thiel during 1935 and

1937 when Werner Thiel was out of work." Signed "Anthony Cramer," and then "Witness: John G. Willis, FBI.,
485 N. Y. C."

I think possibly you gentlemen may want to pass it around before I question the witness further on that [handing exhibit to jury].

Q. Mr. Cramer, referring to this 1935 item, does this say "old debts \$72.50"? Is that word "debts"?—A. Yes; it is debts.

Q. Now when did you figure out that these old debts were \$72.50, and put that entry down there?—A. Well, as much as I do recall, at the time when I made the first loans—yes; the first loan to Thiel in 1937, that is added to the old debts.

Q. Let me see if I understand what you mean to say there. As I understand it, you are saying in effect that when you were called

upon to make some additional loans to him in 1937, you stopped to figure out how much he already owed you and you figured out it was about \$72.50. Is that what you meant to say?—A. That is what I meant to say; yes.

Q. Well now it is quite evident to me that this pencil date 1935 was not put down at the same time as the \$72.50, because it looks like a different pencil and I am wondering if you remember when those entries were made [handing exhibit]?—A. I do not recall that. Most likely the same time.

486 Q. Well, you do not have any definite recollection about that?—A. No, sir; I do not.

Q. Let me see if I can help you a little bit. Now you notice that this page has at the top in the middle the word "Werner"?—A. Yes.

Q. That means Werner Thiel, doesn't it?—A. That is correct.

Q. Do you suppose you put that down first before you put this date "1935"?—A. Well, I am unable to tell you that.

Q. You just don't remember that?—A. I do not remember; no.

Q. But in any event there was a time when you had occasion to figure how much Werner Thiel owed you for old debts, and you figured that was about \$72.50?—A. That is correct; yes.

Q. And so you wrote that down in the book?—A. I did.

Q. When 1937 came around and these loans were advanced, is that first one \$65?—A. Yes; it looks like 65. That is what it is.

Q. It says "and \$65," doesn't it?—A. Yes, sir.

Q. "And \$65." Can you remember how that lump sum of \$65 was arrived at?—A. No; I don't remember that.

Q. You don't remember that?—A. No.

487 Q. As a matter of fact if you take the year 1942, before Werner Thiel suddenly turned up, you did not think that this little memorandum book was of much importance, did you?—A. No; not at all.

Q. Passing that \$65 item, it looks to me as though there were some things underneath that were rubbed out before you put these other entries down. Can you explain that? You see it looks like the words "December 9th" were erased there. I don't know that it is of any moment, but I am wondering what you remember about it.—A. Well, there is a little rubbed out that looks like "December 9th" to me.

Q. Yes, it does.—A. But I do not know what it is. This book has not been looked at since 1937. That is how much I recall it.

Q. You have not had occasion to look at it since 1937, you said?—A. That is how much I recall it; yes.

Q. Let me make a suggestion—and I do not want you to say yes to this unless you know. Do you suppose when you came to

make these entries here you had gotten toward the back of the book and there was no space, and you just rubbed out what was there and you made those entries?—A. Well, I do not know.

Q. You do not know, that is pure speculation?—A. That is speculation. I could not say that.

Q. It seems curious to me that all these have 10 cents after them—19.10, 30.10. Was that little extra increment for you?—A. Well, that looks funny to me myself; queer rather. I do not know what it was; I do not know how it has come in there. As a matter of fact I do remember only the lump sum and the details about them I do not remember.

Q. Was that a little interest you were charging Werner for the loans?—A. No; I don't think so. I never charged any interest. I do not know what the fact could be.

Q. So the fact that those little 10-cent items are all on there you cannot explain at all?—A. No; I do not know.

Q. Another thing that struck me as a little curious, there is \$72.50, \$65, then all these other little items with the 10 cents after them, and you notice there are eight of those 10-cent items.—A. Yes.

Q. Eight of them make 80 cents, don't they?—A. That is correct.

Q. So that they do not really add up exactly to the \$45 that is down there.—A. Mm-hm.

Q. But you do not know how that happened?—A. No; I am completely ignorant about these figures, since I have not paid any attention since then to them; and the details of them I have forgotten. I do not know what it is. All I know Werner owed me a lump sum of about \$200.

489 Q. And that you had these entries put down in this book and you did not pay any attention to that book until after you were arrested and they brought it around and showed it to you?—A. Well, I knew I had a book about my room, but I did not know where it was. I had so many books.

Q. But I say you had no occasion to make any attempt to explain these things that I am asking you about now, until after you were arrested and they brought the book around?—A. That is so. I never knew there was this book.

Q. When you say you never knew there was this book, I do not think you quite mean to say that, because you said just now that you knew you had this book up in your room there.—A. Well, about these particular items; how they were put down.

Q. You had no occasion to think up the details and you do not remember now?—A. That is correct. That is what I meant to say.

Q. A little earlier when I had in my hand the citizenship papers Government's Exhibit 1 I referred to your original declaration of intention to become a citizen, which you signed in 1928. Do you remember that?—A. Yes, sir.

Q. Now in 1936 you actually became a citizen and 190 signed the oath of allegiance, didn't you?—A. I did so, yes, sir.

Q. When you signed that oath of allegiance did you have any mental reservation whatsoever?—A. No, sir.

Q. Did you think as you signed that solemn paper that maybe you would renounce your allegiance to the German Reich or maybe you would do this or that?—A. No; I never had that thought.

Q. You never had any mental reservation about it at all?—A. None whatsoever; no.

Q. When you signed that oath of allegiance did you honestly and genuinely intend in good faith to renounce all allegiance to Germany?—A. Yes, sir; I did.

Mr. MENNA. May I read that to the jury, your Honor. (To jury:) Now this is the oath that he then signed. I have a copy of it here that I made from that other paper. "Oath of Allegiance" [reads exhibit].

Q. Now did there come a time after Thiel got back from Philadelphia and you loaned him these sums of money, that you stated that you and Werner went to live together?—A. Yes, sir; I did.

Q. That is, first you were up in Henke's there, weren't you, after he got back from Philadelphia?—A. That is right.

Q. You said you were there about three months?—A. Three months.

Q. Where did you and Thiel go after that?—A. After that we rented an apartment at 161 East 85th.

Q. Was that the place that Norma came occasionally and cooked the meals?—A. Yes, sir; it was.

Q. That was a little apartment that you and Werner had together there, was it?—A. Yes, sir; that is right.

Q. I suppose by that time you and Thiel were very close intimate friends?—A. We were; yes, sir.

Q. How did you operate that apartment; you fellows did the work around there and the cooking and everything else?—A. Yes; we did everything ourselves. That is sometimes, or most times; rather, I would say, we went outside and ate.

Q. You did not do much cooking except when Norma came there?—A. That is correct; yes, sir.

Q. How long did you stay there sharing that apartment with Thiel?—A. It was—oh, about from March 1939 until December 1941.

Q. Up to December 1940?—A. That is correct.

Q. Now we are getting pretty well along. And so I ask you whether there was not a time then around December of 1940 that you and Thiel moved from that place where you had the little apartment together?—A. Yes; there was.

Q. Where did you go then?—A. To 171 East 83rd.

492 Q. Was that the place where you had your room when you were arrested?—A. Yes, sir.

Q. How did you arrange matters over at this place when you went there with Thiel?—A. Well, we had separate rooms.

Q. In other words, you no longer had a little apartment together?—A. No, sir.

Q. But now you each had a separate room in an apartment in which the owner of the apartment rented out rooms?—A. That is correct; yes, sir.

Q. Did you stay there and did Thiel stay there until the time that he went back to Germany?—A. Yes; we did stay there.

Q. And do you recall about when it was that he went back to Germany?—A. At what time?

Q. Yes; the date.—A. Oh, no.

Q. I do not mean the exact date, but about when?—A. It was in March 1941.

Q. Did he tell you that he was going back to Germany?—A. Yes; he had told me that he was going back to Germany.

Q. He did not make any secret of it in any way, did he?—A. No, sir.

Q. There were a lot of people that knew he was going back, were there?—A. Yes, sir.

493 Q. Did he tell you why he was going back?—A. Well, yes; he said he believed he would have a better future; and then he was afraid that this country might come to a war with Germany, so that he as an alien might be put into a concentration camp.

Q. And he wanted to be back in Germany, did he say?—A. Yes, sir.

Q. Now did he say anything else to you on the subject of why he was going back to Germany?—A. Not in particular. All that I do recall is that he had planned for quite a few years to go back, and that this was an opportune time.

Q. Well, it does not sound opportune to me. I don't understand what you mean by that.—A. Well, since he believed this country— he believed this country would be at war with Germany some time after, he might be better off in Germany, as he might be put into a concentration camp, as I mentioned before; and then he thought that his future would be brighter in Germany.

Q. Now by this time you knew perfectly well that he was

pretty well up to his ears in this Nazi doctrine; didn't you?—A. Yes, sir.

Q. As a matter of fact when the time came for him to go did you have any discussion with him about where he was getting the money from and how he could afford to go back?—A.

494 Well, I heard him mention once—we were in our apartment, and Norma was there too, Norma Kopp—that it had been arranged somehow by someone that the money necessary to go back to Germany was loaned, and that later on they had to repay it. That is all I knew about it.

Q. Did he say anything to you about that being loaned to him by this National Socialist Party that he was a part of here in New York?—A. Not that I do recall; no.

Q. But that the money was being advanced to him and that he was going back?—A. Yes, sir.

Q. Now did you have any talk with him before he went back about the money that he owed you?—A. Yes, sir; I did. About five or six weeks or two or three weeks, I am not quite sure about the date, I asked him, that I thought it proper that he might repay the money, particularly the money that I loaned to him in 1935, and he got irritated about it and said that he did not feel himself responsible to repay this sum.

Q. Explain that. I do not just see what you mean by that.—A. Well, he says his coming to Hammond, Indiana, in 1934 had turned out to be a failure, and that he did not feel himself obliged toward me, to repay this money.

Q. Well, how could he blame it on you? You loaned him the money to come at that time.—A. He tried to make me more or less responsible, that he come out there because I had written to him to come, there was an opportunity for
495 him, and since I had written this letter to him he seemed to think I was more or less responsible for his future there.

Q. What did you say when he made that suggestion?—A. Well, I got rather irritated too and said that regardless under what circumstances the money was loaned, he was obliged to repay it.

Q. Did you tell him that?—A. Yes, sir; I did.

Q. What else did he say on this matter of the money?—A. Well, he said: "I may have a chance some other time to repay it."

Q. Did he say anything to you about possibly sending some of that money to members of your family over in Germany?—A. I told him that; you know, "When you are in Germany and if you should be able to repay it you can give the money to my oldest brother in Ollendorf."

Q. Did he say he would do that perhaps?—A. He said he would see about it.

Q. Does that exhaust everything that you said and that he said with reference to these monies that he owed you before he went back to Germany?—A. As much as I can recall; yes.

Q. Now do you remember the date he left to go back to Germany?—A. I do remember the day, but not the date.

Q. Well, I am asking you not for the date but the occasion. Do you remember the occasion?—A. Yes, sir; I do.

Q. Where was it he started from?—A. I believe it was the Greyhound bus line downtown at 42nd Street.

Q. When you say "I believe it was" you mean to say you really remember being there and seeing him go, don't you?—A. Yes, sir; I do.

Q. This way of saying "I believe it" is not as clear as it might be?—A. I was there on the occasion.

Q. You were right there watching him, weren't you?—A. I was; yes, sir.

Q. Who else was there?—A. There was Norma Kopp.

Q. Norma was there?—A. Yes, sir; and—

Q. Did you know at that time that he and Norma were engaged to be married?—A. Yes, sir; I did.

Q. Were there several other people there to see him off?—A. Oh, yes.

Q. About how many people?—A. There were about 12 or 14 people.

Q. About 12 or 14 people there seeing him off?—A. Yes, sir.

Q. So the fact that Werner Thiel was going back to Germany was no secret?—A. None whatsoever; no.

Q. Now before he left, did Werner Thiel say one word to you about communicating with you afterwards about any spy work?—A. No, sir; never.

Q. Was anything, even a hint, made by him, before he left to indicate to your mind that he might come back doing some spy work for the German government?—A. No, sir; not a word.

Q. Now you have no mental reservation about that, have you?—A. No; I am positive about it.

Q. Because I want to make my question just as broad as I can, that there was not a word said by him or a hint dropped by him before he left for Germany, to indicate to you that he was coming back on any job or spy work for the German government.—A. None whatsoever. I am positive about that.

Mr. MEDINA. Let me if I may ask to have those exhibits, the postal cards and the letters.

(Mr. Goodkind hands exhibits to Mr. Medina.)

Q. Now I have got here all these postal cards and letters that

were referred to in the Government's case, and I want to ask you a few questions about them. There is one here, Exhibit 64, that has this not very elegant picture of Niagara Falls on it. It is addressed to Werner Thiel, and you do not appear ever to have mailed that [handing to witness]. Do you remember that?—A. Yes, sir: I do.

Q. Was there any reason why you should not mail that?—
498 A. No definite reason. I had written it and put it in my pocket and forgot about it, and a couple of weeks later I found it, so I did not send it at all.

Q. You used it as kind of a bookmark in one of the books, didn't you, as I understood the testimony? Don't take that from me; I am not sure of it at all?—A. Well; I do not remember that.

Q. You do not remember whether you had that in one of the books or not?—A. I do not remember it.

Q. But there was not any reason why you should not mail it, but you just did not mail it?—A. That is correct; yes.

Mr. MEDINA. May I read that to the jury, your Honor? It seems of no particular importance, but I just want to read that. [Hands exhibit to jury.]

Q. Did Henke in July 1941, have a place up around Niagara Falls?—A. Yes; in Spring Brook, which is not very far from Buffalo.

Q. In Spring Brook which is near Buffalo?—A. That is correct.

Q. Is that the same Henke at whose place you and Thiel stayed, as you testified?—A. No.

Q. That is a different Henke?—A. The same family, but it is a different place.

Q. It is a different place and not the same man?—

499 A. It is the same man, but in Buffalo. At that time they were in New York.

Q. That is what I meant to say in the first place. So that the Henke referred to in this postal card is the same Henke had the apartment in St. Nicholas Avenue in New York City that you told us about?—A. That is correct.

Q. Who is this "Kathie"? It says "Greetings, Kathie."—A. It is his wife.

Q. Who is "Willie"? It says "Greetings, Willie."—A. That is Mr. Henke.

Q. You meant, writing those words there in German, and the translation is what I have been reading, that both Henke and his wife were sending greetings to Thiel?—A. Correct; yes, sir.

Mr. MEDINA. May it be conceded that the censorship stamps are those of the British censor on Exhibits 68 and 69?

Mr. CORREA. I think it is probably the British judge. Actually

our own looks very much like it, but I do not think our own was set up at the time.

Mr. MEDINA. No; there was no United States censorship set up at the time, which we may take to be the fact subject to correction.

Mr. CORRÊA. Yes. I think I described them as British
500 when I read the exhibit to the jury, and I think that is what they probably are.

Mr. MEDINA. I think you did. So we may have it understood subject to correction that these slips pasted here on Exhibits 68 and 69 are British censorship stamps, and that at that time there was no United States censorship as yet set up.

Q. Now referring to these letters, and I mean these two letters to Thiel and the letter to Hubert Thielmann, which have been placed in evidence, I want to ask you a few general questions. Now since the brief period of your service in the German army in the last war did you ever regard the United States as an enemy?—A. Never.

Q. Referring to that same period of time did you ever entertain any intentions hostile to the government of the United States?—A. No, sir.

Q. Did you ever for one moment contemplate the possibility of your again joining the armed forces of the German Reich to fight against the United States?—A. Never had a thought. Never had a thought of that.

Q. The statement has been made here of the government's claim of a motive which you are supposed to have had, and with reference to that I ask you these questions. Did you ever entertain a feeling of greater allegiance to Germany in this war than to the United States?—A. No; I have not.

Q. Did you ever entertain a strong antipathy to the
501 position of the United States in the present war?—A. Will you explain this a little, counsel?

Q. Let me get the exact phraseology here.

Mr. MEDINA. I wonder if I might borrow your Honor's copy of these minutes [minutes handed to Mr. Medina].

Q. The reason you hesitate, Mr. Cramer, is because you have in mind before Pearl Harbor and after Pearl Harbor; is that it?—A. That is correct; yes, sir.

Mr. CORRÊA. I object, if your Honor please, to counsel leading that way. It seems to me on a subject such as this—and I might point out, as I think your Honor has observed, we have had not only leading but I might say forcing the witness heretofore, but I think on this subject we might let the witness speak for himself.

The COURT. Do that, Mr. Medina.

Mr. MEDINA. Yes; I will, your Honor. I quite appreciate that a good deal this morning I have been leading him, and I have at

tempted to do that on noncontroversial points. I know I should not lead him on matters that are controversial, nor do I intend to.

The COURT. It is 1 o'clock. Shall we take a recess?

Mr. MEDINA. I do not think we ought to leave this right
502 here. It is a crucial point. Just a question or two.

The COURT. Yes; go ahead.

Mr. MEDINA. Just a question or two.

The COURT. Take all the time you want.

Mr. MEDINA. I have a few questions. Then we might recess
to 2:15.

By Mr. MEDINA:

Q. The statement Mr. Correa made to which I have referred is at page 217 of the minutes, Mr. Cramer, and it is as follows: "However, in addition to specific intent we will show a motive, the motive consisting of a deep-seated feeling of greater allegiance to Germany in this war than to the United States." That you deny, do you not?—A. I do deny that; yes, sir.

Q. He goes on, and I quote again, "and indeed a strong antipathy to the position of the United States in this present war." I asked you the question whether you ever entertained any such strong antipathy to the position of the United States in this war.—A. I did not; no, sir.

Q. Now when you hesitated about that I thought possibly those words "in this present war" were not completely understood by you, and I want to have you explain anything you had in mind there, if they were not clear.—A. Yes, sir; I will explain that to the jury, to the judge. I thought you were referring to a
503 time before the war, and before the war I was opposed to the

United States entering the European conflict, but when America was attacked my attitude has been that we can do nothing else but fight, and I was on the side of the United States.

Q. While this question may be slightly leading I do not think Mr. Correa will object to it: When it says "in this present war" that might mean the war they started in 1939 and which has continued ever since, or it might mean the war in which the United States became a participant beginning December 7, 1941, might it not?—A. I thought you were referring to the former.

Q. That is what I supposed you did. Now taking your attitude before Pearl Harbor, before December 7, 1941, did you then have a different feeling than you had since then?—A. Yes, I have.

Q. What was that feeling?—A. Well, I thought that America should not join the European war at all, because my fatherland, the land where I came from, was involved; but since this United States, these United States, our country, got attacked, I have changed my opinion because we can't do anything but fight and win, otherwise it will be the end of our country. That has been

my attitude which I have ever since maintained since this country was attacked.

Q. Going back to the time before the United States was in the war, did you genuinely sympathize with the German people?—A. With the German people; yes, sir; I did.

Q. Why did you do that?—A. Well, I believe coming from Germany I am entitled to a little love for my fatherland.

Q. Your family, your brothers and your sister are there now, aren't they?—A. That is correct.

Q. And that is where your mother and father were?—A. That is right.

Mr. MEDINA. All right, Your Honor, shall we return at 2:15?

The COURT. 2:15?

Mr. MEDINA. Well, 2 o'clock is all right. I did not realize I would take such a short time.

The COURT. We will take an hour, and that will be five minutes past 2.

(Recess at 2:05 p. m.)

505

AFTERNOON SESSION

2:05 p. m.

ANTHONY CRAMER resumed the stand.

Direct examination continued by Mr. MEDINA:

Q. When I was on the subject of your citizenship there was a question I meant to ask you that I will come back to: Since you became a citizen of the United States, have you voted on every occasion that you were qualified to vote?—A. Yes, sir; I have.

Q. Now turning to this letter, Exhibit 68, with the envelope and so on, I read from the translation. You said in this letter to Thiel of November 25, 1941, "You understand that I can toss you only small crumbs from this fadder field since this letter will probably go twice through enemy censorship." What did you mean by the words "go twice through enemy censorship"?—A. Well, England and Germany.

Q. Did you have any reference to the United States censorship?—A. No, sir.

Q. As a matter of fact, as it has just been conceded here just before the luncheon recess, there was not any American censorship then, was there?—A. No.

Q. As far as you knew?—A. That is correct.

Q. Now when did you first meet Norma Kopp?—A. I believe it was in May 1937.

Q. And she said that you introduced Thiel to her up at the Kolping House, is that right?—A. I cannot recollect that. I do not know.

506

Q. Is it a fact that you did meet her up at the Kolping House yourself?—A. I have seen her there the first time, that is correct.

Q. And when you first made her acquaintance, was that up there in the Kolping House, as far as you recall?—A. That is correct; yes, sir.

Q. What you do not remember clearly is whether you introduced Thiel to her or not?—A. I do not remember.

Q. That you don't remember?—A. No, sir.

Q. Did she tell you where she came from?—A. Well, I learned of that later, months later. I do not think she did.

Q. What did you find out about that when you did get the information?—A. That she came from Frankfort-on-Main in Germany.

Q. And you first made her acquaintance you say when?—

A. Well, I would say May 1937. I am not positive about that.

Q. About May 1937?—A. That is correct; yes, sir.

Q. After that time did she become friendly with you or with Thiel or with both of you?—A. Well, Thiel took an unusual interest in her which later on was, I believe, love, love for Norma Kopp.

507 Q. There came a time when Thiel fell in love with her?—

A. That is correct; yes, sir.

Q. Was that shortly after they met or some little time later?—

A. Well, quite shortly after they met the first time, he fell in love with her.

Q. Did they act toward one another from that time as though they had an affection for one another?—A. I believe Thiel was more in love with her than she with him.

Q. When, as far as dates are concerned, did he begin to show some affection for Norma?—A. Well, I don't know the exact date. I believe about eight or ten weeks after they met, or five or six weeks; I am not quite sure about that.

Q. Did there come a time when she seemed to return his affection?—A. Yes.

Q. Can you tell us approximately when that was? We do not have to have it exactly, you know.—A. In the summertime of 1937.

Q. So that from that time on they indicated a certain affection for one another?—A. Correct; yes, sir.

Q. Without going into too much detail, I wish you would tell the jury how they acted toward one another from that time on?—

A. Well, I am not very well informed about that subject, but I saw them quarrel once in a while and then again make up

508 quite fast. They quarreled tonight and made up again tomorrow.

Q. Did Norma Kopp come around to the apartment where you and Thiel were living?—A. Yes, sir; she did.

Q. And about how often did she come there?—A. Well, that depended upon her work. Sometimes she was prevented to come and if she was in the city she came almost every evening.

Q. And did she go out with Thiel a good deal?—A. Yes; she did.

Q. Didn't go with you, did she?—A. No; we never had any personal affection for each other. We were friends, that is all.

Q. Now do you remember what sort of work she did?—A. Well, yes; as she told, she was a laundress.

Q. Yes; I heard her say that.—A. Later on she did some kind of domestic work.

Q. Isn't it a fact that during the period of time you knew her, she was a domestic servant?—A. That is correct, sir.

Q. And that is what she was during all the time you knew her, wasn't she?—A. She was; yes.

Q. And that she worked with families somewhere in the neighborhood of New York, either in New York City or near New York?—A. That is right; yes, sir.

Q. Do you recall whether or not there came a time when you were given to understand that she and Thiel became engaged to be married?—A. Yes; there was; shortly before Thiel left for Germany.

Q. And how did you find out about that?—A. Well, that I do not recall exactly. I believe a friend of Norma told me.

Q. Thiel did not tell you himself?—A. No, sir.

Q. Nor Norma either?—A. No, sir.

Q. But you heard it from somebody else?—A. That is correct.

Q. That they were engaged?—A. Yes, sir.

Q. When Thiel left did she kiss him good-bye?—A. Well, I think she did. I am not quite sure about that. I think.

Q. But you do not remember for sure one way or another about that?—A. No; I am not positive about that.

Q. That brings us down to Monday, June 22, 1942, and before I take that up, I want to ask you if there is anything that I have forgotten, anything about your past life there that you think you want to state about, that I neglected to question you about?—A. I do not think so; no.

Q. Before that Monday, June 22nd, did you have the slightest idea from any source that Werner Thiel was coming back to the United States?—A. No, sir; I did not.

Q. You had in the meantime received a number of postal cards from him which have been marked in evidence here; haven't you?—A. Yes, sir.

Q. And you had those right up in your room there?—A. I did; yes.

Q. Was there anything in any of those postal cards that gave you the slightest intimation that he was coming back?—A. No, sir; he did not.

Q. I have some recollection that you mentioned, or there was mention made in one of these letters, of another letter that came from Thiel in Germany, asking about Norma. Am I wrong about that, or was there some such letter?—A. I think there were two.

Q. Now one of those letters is here. Is the one that came back with the notation "Returned to Sender. Service Suspended." No; I withdraw that. That was your letter, of course.—A. Yes.

Q. Now as to the letters from Thiel, were any of those up in your room there?—A. I believe there was one or two. I am not quite sure about it. As much as I do recall, Thiel wrote altogether three letters to me, but I am not quite sure about that.

Q. Let me see if I can refresh your recollection about that. I have some recollection that somewhere there is a statement that you had received one letter and a postal card from him 511 after he reached Germany?—A. That is correct.

Q. Let me just take the time to find where I got that. Yes, right here in your letter to him of November 25th, you say "From you I have so far received a card and a letter. Though your communications are of a very laconic nature, I am nevertheless glad when you let me hear from you." Is your present recollection that from the time he reached Germany, you only received those two communications from him?—A. According to that letter, yes.

Q. And from that letter is your recollection refreshed so that you can say there were these two; the card and the letter?—A. Yes. I believe there were not more than two. I am quite sure about that.

Q. When you say no more than two, you mean by the two to include the card and the letter?—A. No; by that I meant two letters and a card.

Q. You have some recollection of two letters and a card?—A. I think I received two letters; yes.

Q. Do you have any recollection of what you did with those letters?—A. No, sir; I do not know.

Q. If they were not found in your room, you do not know where they are?—A. I do not know where they are.

Q. I show you this Government's Exhibit 62, which is a 512 postcard, but there is a lot written on it, both on the front and on the back. Do you suppose you could have recalled that as a letter?—A. No, I could not tell you that, sir.

Q. That is much longer than the writing on those other cards.

isn't it?—A. You see, it is a matter of uncertainty. I am not quite sure if he wrote one or two letters. One thing I do know that Werner was always rather sluggish in writing.

Q. But as to whether your recollection thinks of this card as a letter or just as a postal card, you just do not know?—A. I do not know.

Q. Did you ever throw any communications that you received from him away with the intention of deliberately getting rid of them?—A. No, sir; I never did.

Q. Referring to either the letter, or the two letters, whichever it was, that you received from Werner Thiel after he got back to Germany, tell the jury as far as you can what is your recollection of the contents of those letters, or the letter, whichever it was?—A. Well, I do not recall much. I do know that he stated in one that he was in Berlin and that he has seen his folks at home and that his sisters were quite a bit enthusiastic about his coming back and that he was getting along very well with his family.

Q. Did he say anything about Norma?—A. Oh, yes, 512—A. and he gave his greetings to Norma; and that I do recall. I am positive about that.

Q. Did he tell you anything in any written communication, whether by letter or by postal card, to the effect that he was going to some school to learn how to blow up factories, and things of that kind?—A. No, sir; never did.

513 Q. Was there anything in those communications that even in the remotest sense conveyed to your mind the impression that he was doing work of that kind?—A. No, sir; never.

Q. Now we come to the morning of Monday, June 22, 1942.—A. That is correct.

Q. Had you been at work?—A. I had worked—

Q. During that night?—A. Yes, sir. I had worked from Sunday to Monday morning.

Q. You mean you worked on the night shift over in that factory in Brooklyn?—A. That is correct; yes, sir.

Q. And you got back to your room about when?—A. I would say it was about a quarter past 9.

Q. What did you do?—A. Well, I had my breakfast, which took up about 15 minutes, and went back to my room, turned on the radio and started reading a book, and it was about, I would say 10 o'clock, when the bell of my apartment rang and Mr. North, who is my next-door neighbor, went to answer the call.

Q. How do you know that?—Did you just infer that by hearing him go up the hall?—A. That is correct. I heard his door opening and I know him by his steps, by his gait, and I heard a strange voice calling my name "Cramer." So hereupon Mr. North stepped to my door and called my name "Cramer, are you at home?"

514 And since this was a strange voice I thought it was a strange man and I did not answer; I pretended not to be at home. And about ten minutes later a note was shoved under my door.

Q. You were lying right there and saw the note?—A. I was in the room and I saw the note was being shoved under the door; that is correct. And I picked it up and it had words written on it. It said "Be at the Grand Central station tonight at 8 o'clock, the upper platform near the information booth. Franz from Chicago has come into town and wants to see you; don't fail to be there." Well, my first reaction to this note was not to go down there at all, as I did not know of any Franz in Chicago. So I decided then and there not to go down there at all. But when evening came curiosity got the best of me—

Q. What were you doing in the meantime?—A. Oh, I had been sleeping.

Q. You went to sleep and then when you woke up you say curiosity got the best of you?—A. That is correct; yes, sir.

Q. What did you do with that note?—A. I don't know; that must have wandered into the wastebasket.

Q. As far as you remember you threw it away?—A. That is correct, sir.

Q. Did you have any particular reason for throwing it away?—A. None whatsoever; no. Mr. North can tell you, if you would be interested in that, that he has put the note under my door.

Q. Yes; but I say after you read it and saw what it was I was interested in what happened to the note.—A. Yes.

Q. And you say as far as you remember you threw it away?—A. That is correct; yes, sir.

Q. Did you recognize the handwriting?—A. No, it was a strange handwriting.

Q. Now go right ahead and tell the jury what you did that evening.—A. So when evening came I decided to go down after all and see who it was. It was about 7:30 when I went down, and ten minutes later I arrived at the Grand Central depot. I waited around the information booth until about 8 o'clock. I had an impulse to go back home, but I said to myself "better wait another ten minutes to make sure if someone comes that I have met him or that I have not missed him." So I waited around another ten minutes and then turned around to go back home, because I had resolved or had decided to go back home at ten minutes past eight. And I believe I did not walk further than, or had not walked more than three or four steps when someone called my name "Tony." So I turned around and there was Thiel coming toward me—Werner Thiel. Well, I was amazed, you know. I looked before I trusted my eyes, and all the while he was walking toward me.

516 and I said, "Werner, is that really you or your ghost?" He said, "It is me all right." I said, "For heaven's sake, where do you come from? It is the last thing I thought you would turn up; I thought you were in Germany, and some people have predicted you were dead in this country." Some friends of ours in Hammond, they actually had written Thiel had died in Germany from bombing. So I told him, "For heaven's sake, I am almost thunderstruck to see you here." Then all of a sudden I said, Say, how have you come over, have you come by submarine?" He gave me a very startled look and smiled and said "Some other time I am going to tell you all about this." Then he continued to say "Remember now my name is Bill Thomas and I am anti-Nazi—I am anti-Nazi."

Well, I didn't know what to say. I said, "Whatever it is, you know, let us have a drink first and celebrate our reunion." So we walked around to the Twin Oaks Inn at Lexington Avenue and 44th Street. There we settled down and ordered a drink. I believe we sat right alongside of Lexington Avenue in the corner there, and Werner Thiel immediately started to question me about Norma Kopp, how she had been, where she was working and what she was doing, and if she went out with other boy friends, if she went to dances, and numerous other questions. So I
517 answered them to the best of my knowledge and said "She is well and she asks quite a few times for you and speaks about you," and he seemed to be very pleased with that.

Q. How long do you suppose you were there at the Twin Oaks Inn that Monday night with Werner Thiel?—A. Well, I believe it was about 8:25 when we entered, and at what time exactly we left I cannot recall, but I believe it was 10:30, something like that.

Q. What else did you talk about that evening when you were there with him besides Norma Kopp?—A. Well, I said to him that Norma was bound to come to the city, that she worked in Connecticut and came back every few weeks, and I told him to make sure that she does come I could write her a note, a letter, as I corresponded with her quite often. She had complained about being very lonesome in the country and she would appreciate if I wrote a letter to her. So previously to that I had written Norma quite a few letters and I suggested to Thiel to write her a letter on the occasion telling her that he had come back to America.

Q. Well, why didn't he write her himself?—A. Well, he did not know the address, and I offered the service to him to do that without he approaching me to do that.

Q. Did you have any particular reason for the suggestion
518 that you write to her and tell her?—A. No, I didn't have any reason at all. I simply wanted to make sure that she did come and see Werner.

Mr. MEDINA. Let me just get that letter [Mr. Goodkind hands exhibit to Mr. Medina].

Q. I wish you would just take a glance at this letter that you wrote to Norma, and see if it refreshes your recollection at all [handing to witness] as to why you wrote the letter to her.—A. Well, I have had no definite thought about writing the letter. I simply wrote her to make sure that she would come, as Werner Thiel seemed to be very, very anxious to see her.

Q. But you did not tell her in the letter that Werner Thiel was here, did you?—A. Well, he told me, you know. "You better not mention my name, because she may get so excited that she faint," or something to that effect. So I abstained from mentioning his name, on account of his proposing it to me.

Q. Did you write it that way so as to surprise her?—A. Well, yes; that was another thing, and I wanted to tell her personally by word of mouth to see the effect upon her and have the gratification to bring her glad tidings, good news.

Q. You knew that that was going to be something of considerable interest to her, didn't you?—A. Yes; sure.

Q. This was the man she was engaged to marry?—A. 519 That is correct.

Q. You did not write this letter to her that night, did you?—A. No, sir.

Q. So that I will come back to that a little bit later, and I ask you now what else you talked about with Werner Thiel that evening.—A. I then asked him if he had visited my folks in Germany, in Ollendorf. He said no, he did not have a chance, he had written a couple of letters but they have not been answered, these two letters. So then I asked him about his folks, how they were getting along, and he said "they are doing all right. I have suffered a grievous loss," he said, "my brother Herbert," his youngest brother, he had died in Russia, fallen in action, and another brother of his, his eye had been shot out. So I expressed my sorrow to him and he seemed very much under the strain of emotion at this time.

Q. Now during that talk that you had with him that first evening, Monday, June 22nd, did he tell you anything about what he was here for?—A. No, sir. I asked him several questions. I will come to that later.

Q. Then you go right ahead and tell the rest of the conversation, but I want it down to June 22nd now, and then later on we will come to the next day, and so on?—A. Yes.

Q. I would like to get just what happened that evening.—

A. Well, he told me several stories about the Russian front 520 then. His brothers had told him that the war in Russia had been according to the sayings of his brothers, very

brutal, and he told several stories rather about the war itself in Russia. One of them I do recall was that near Rostov the Germans had been forced to withdraw and had left a couple of hundred wounded soldiers in a hospital, field hospital, and two or three days later when they had recaptured this region they had found the Germans driven out of the hospital and disrobed and frozen to death.

Q. That is what he told you?—A. That is what he told me; I don't know that it is true. Well, I believe I must have been talking quite loud. There was a man behind us, he seemed to be listening intently, and he said "You better not talk so loud, because you know we seem to arouse much attention around here." And I noticed there was a man sitting in the back of us seemed to be listening to us intently. Well, we paid no further attention to him then, and then—oh, I asked him then about his—oh, pardon me, he told me about his oldest brother, his oldest brother he said had made quite a success out of himself, he was a director of a big factory in Hamburg and quite an influential member of the party of the Nazi party in Germany; and then he asked me "Guess what surprise I have for you?" Well, I said I don't know. And then he said he met Eddie Korde. Korde was a man whom we had been together with in 1931 and 1932 in New York.

Q. That is K-o-r-d-e?—A. That is correct; yes, sir. And Korde had been in Turkey for the last few years and accidentally he had met him in Dortmund and they had spent quite a hilarious afternoon together, and Korde had bragged quite a bit because he was going to get married to a German baroness.

Q. Korde was going to get married to a German baroness?—A. To a baroness, he had made much to do about that fact. So he told me several details about—anecdotes rather about Eddie, and we talked quite a bit about his having been in New York at that time.

Q. This is Eddie Korde?—A. Eddie Korde; yes. And he asked me if I recalled what we had called Eddie at that time. We had nicknamed Eddie a short nickname. And then he told me about Willie Schneider. Willie Schneider was a fellow whom we had known in New York and he had gone back to Germany also, in 1939 or 1940, I don't know. He had met him in Germany. And Peter—his second name I have forgotten—Peter was pining to come back to America, you knew.

Q. Did you remember this Peter?—A. Yes; sure, I had met him, but I don't recall his second name.

Q. You knew what he looked like?—A. Yes.

Q. You and Thiel had been friends of his?—A. He had been in the Kolping House; I had met him several times. Peter was planning to come back to America, he said.

Willie Schneider did not like it so well in Germany, either, he said, and he told me about Joe Nussbaum. He was a barber by trade and his wife had left for Germany and later on he had gone back, too.

Q. Joe Nussbaum was another one of the men you knew in New York?—A. That is right.

Q. And had gone back to Germany, and Thiel had met him there?—A. Yes; that is right. And he told me about the family quarrels. Maria Nussbaum and Joe, these two had quarreled and separated in Germany, and Maria had asked to come back to America; she had made up her mind to come back to America if possible, as soon as possible. Oh, then I told Thiel that I had received a letter from the FBI asking about his whereabouts, and as they were looking for him, and I told him that I had written back that he had gone to Germany. And then he said, "You know, that is why I am now under the name of William Thomas; I don't want to have any trouble with them." And he showed me a draft card which was printed to the name of William Thomas. I asked him, "Where did you get that?" He said "In Chicago," he got that in Chicago. So I said, "But you know if they catch you with that you are going to be"—I don't know what I said, anyway
523 I told him that could be bad for him, forging a—

Q. Having a draft card with a fictitious name on it?—A. That is correct; yes sir. And then I asked him to tell me "Why did you come back, and how?" Well, he said, "I had a good chance to get away from Germany and I took it. I wanted to be back in America. I am going to settle down here and get me a job as a machinist." Well, I told him that it was a very funny thing. Well, he said, "Don't worry, you are going to learn all about it. As soon as Norma comes down here we are going to discuss the whole thing over a glass of wine. I will tell you all I have to tell you."

Then I told him "How are things in Germany?" "Well," he said, "if Russia is not going to be beaten this Fall"—that means Winter 1942 he meant; 1942, that is correct—"then Germany I believe is going to lose the war," he said "because in Berlin as well as in Dortmund I have noticed a current of unrest. We have so many people in Germany that have been Communists before, and those are the ones that are liable to stir up trouble. They do not do it openly but the hatred, or the discontentment is there," he said. "They have acknowledged themselves to be members of the Nazi party but their conviction is still Communistic, and we have had the time when the Communistic party was at its height,
524 when we had seven million booked members Communists in Germany, and those are the ones that will make trouble as soon as there is a chance," he said, or something to that effect.

Well, we talked about the causes of the war and I asked him

what he thought, if Germany could win the war. Well, he was inclined to believe so if Russia could be defeated in the Summer of 1942, and he said "I believe the biggest blunder was made by the German High Command when they failed to invade England in 1940 after the fall of France."

Well then we spoke some more about the history of Germany and I had the attitude to call the Germans rather uncompromising, and too literistic, and as partly being the cause of this present war, but he was inclined to attribute it to the failure of England to understand Germany and the dominant attitude of England on the European Continent.

So we discussed these different matters for quite a time, and I asked him if he had ever been bombed in Germany since he had been—no, pardon me. I asked him first, as I do recall, what he had been doing in Berlin, and he said he had been working in a factory as an inspector and that he had not liked his job at all because he had to work twelve or thirteen hours, and the work itself was very hard and very difficult; that he had welcomed the
525 chance to get away from that, and then I asked him how it was; if the German cities had been bombed badly, as badly as we read in the papers here. Well, he said he had seen Hamburg; he had been with his brother in Hamburg and Hamburg was pretty well damaged. He admitted that. As well as Bremen, whereas Berlin was not so badly damaged, he said, and I then—

Q. Did he say anything about the money?—A. No. I am coming to that later.

Q. That was not discussed on that occasion?—A. Yes; it was, later on. Oh, I asked him how it felt to be bombed. "Well," he said, "the first time I got bombed I was scared to death, but as soon as it gets repeated a few times you get used to that, too." And then he added—what he said—"Oh, then you know the only time I really was scared to death was when I came over here we got bombed." One thought it, it came to me in a flash, I said "Then you have come over by submarine, haven't you?" He said "Some other time," he said, "you know you are asking questions like an investigator." He got irritated that I asked so many questions. "You are going to learn about it." Well, I left him alone then. I was quite mystified about his behavior, that he was not going to tell me anything.

I waited an opening, and I asked him if he had ever
526 listened to a foreign broadcast in Germany. He said he had been with his brother in Hamburg once and that both of them had been listening to Boston, to the Boston radio, and I asked him if he had seen one of the German broadcasters, a couple of Americans, one called himself "O. K. speaking," which was an American, and another one—I forget the name, but we had listened

to their broadcasts from Germany in this country, Thiel as well as I, and "Lord Haw Haw," and I asked him if he had seen any of those fellows in Berlin, and he said no.

And then I asked him—no, I told him that I had listened to a broadcast from "O. K." and "O. K." had described an experience from a submarine; he himself had been in the submarine and dived and had gone through all the experiences of crash diving.

Q. Is that what you heard over the radio?—A. That is correct.

Q. And you were explaining to Thiel you had heard that over the radio?—A. That is correct. I did that because I thought if I tell this story he might listen and tell me his whole experience. I wanted to hear it. And I told him also a story how this "O. K." had been introducing a German submarine commander who had given his experience. He had told his story—

Q. This is some more over the radio?—A. Yes. I told
527 him this story I had heard over the radio and—

Q. Well, after you got through telling him about what you heard over the radio and so on, did the conversation go on to other subjects?—A. Well, he told me he had heard a similar story from a young submarine officer in Berlin who had told him that they had been forced to crash dive and while they were doing that they had been bombed or their conning tower had been damaged so that later on when they emerged again they were unable to get out of the submarine, so this young submarine officer was forced to go through the window in order to get to the conning tower and when he was out another attack by a flyer, as he said, had occurred and they were forced to crash dive again and this young officer had been left outside—

Q. Out in the water?—A. Out in the water, swimming, and two or three hours later the submarine had come up again and they had found this fellow.

Q. This is the story he was telling you?—A. He was telling me.

Q. That he heard that from some source?—A. Some young officer had told him this story. So then you know he said then, "I am in a position now to give you your money back." "Well, I said, "that is good, but how? When you left you had no
528 money." "Well," he said, "I am well fixed now. I have about three and a half or four thousand dollars with me, between three and a half or four thousand dollars." I said, "You mean to say American money?" He said "Exactly." "But where did you get it?" I asked him. "Well, if you have the right kind of connection you can even get dollars in Germany." That is what he said. "Well, only," he continued, "I do not like to carry this money around with me. I wonder where I could put it?"

Q. This is Monday night still?—A. This is Monday night; yes.

sir. And I told him "Well, you can rent yourself a safety deposit box. That is a safe place to have it in."

Q. You said that?—A. I told him that. I said that, yes, "or still better, I have a safety deposit box. You can trust to me and I will put it in there." Well, he hesitated a moment and then said "O. K. You can do that," and I told him "O. K., I will take it, and I will take the money you owe me and I will take it off."

Q. Did you make that suggestion so that you could get your money?—A. That is correct. "Well," he said, "how much do I owe you?" "Well," I said "as much as I do recall, it is about \$200. If I am not mistaken, I have a notebook home and there it is marked down how much you owe me."

529 Well then I believe it was ten o'clock, something like that, or half past ten, and we fell into gossip about acquaintances. He asked me about several of our acquaintances, William Henke, Bernard Hellman, and several other people whom he as well as I knew, and from there we went to the Grand Central depot, and we came to the Hotel Commodore, and he said "This is where I live. This is where I stay, and it has a swell bar," and he said "Let's have a drink before we go back home."

Q. Another drink?—A. Yes, sir. So we went inside and stood at the bar I believe for another ten minutes and then we went outside and had a little talk outside, walked up and down before the building of the Commodore and Grand Central, and I do not know the exact time but I believe it was something around eleven o'clock when I went back home. Oh, and then he said before we left, "Can I see you again tomorrow evening?" I said, "All right, I think I can meet you again tomorrow evening."

Q. Didn't you say something to him about coming up to your apartment the next evening?—A. Oh, yes; I believe I did. I did; yes, sir. I said "You can come up to Yorkville and see me in my apartment." He said "No; I would rather not come up to you because I have too many acquaintances there and I don't
530 want them to see me." That is what he said, and he said, "You can come down here and see me at the Twin Oak."

Q. When he said he did not want to come up there and had so many acquaintances and did not want to be seen, did you think that he had reference to this draft business or this trouble with the draft board?—A. I did not know what it was, but that was the only thing I suspected him of, being anxious not to be seen by anyone.

Q. You did know at the time he made this remark about this draft board situation, didn't you?—A. Well, yes; I had been receiving a letter from the FBI asking for Werner Thiel.

Q. Well, now, go right ahead and tell us anything else that

occurred that evening of Monday, the 22nd, if there is anything left you have not told the jury.—A. Well, then I went back home. I don't know the exact time but I believe it was eleven-thirty when I came back home.

Q. You have told us about all you remember about what was said that evening?—A. That is correct; yes, sir.

Q. Now let me ask you something else; did he say anything to you that Monday evening about Kerling?—A. No, sir. He did not mention him at all.

Q. Now then you went home, that is, back to your room, late in the evening of Monday the 22nd. Now did you
531 have to work on Tuesday?—A. Yes; I had to work. I had changed my shift. I had to work during the day.

Q. That is, sometimes you worked at night and sometimes you worked again in the daytime?—A. No; I worked steadily nights, but we had some particular kind of work to do in the factory and I was required to change my shift for about three or four days in order to be in during the day.

Q. But what I am getting at is, you did not bring about that change in the shift. You just told you were to work in the day shift on Tuesday.—A. That is correct; yes, sir.

Q. You did work on the day shift on Tuesday, didn't you?—A. Yes, sir.

Q. Then there came a time when you came home from work Tuesday evening?—A. That is correct.

Q. And I suppose you got your dinner and then went down to meet Thiel?—A. That is correct; yes, sir.

Q. In the meantime had you written this letter to Norma Kopp?—A. No, sir; I did not.

Q. Was there any reason why you did not?—A. Well, I did not see any particular hurry about it.

Q. Well then I guess you did not have much time on your hands to do it either, did you?—A. Well, I would have had the time, I believe, but I did not think about it.

532 Q. Anyway, you went down Tuesday evening to meet Thiel according to this arrangement that you made with him when you left him Monday night?—A. Yes, sir; I did.

Q. Now, where did you go?—A. Well, Monday evening, or Tuesday evening, I went back to the Grand Central depot, downtown, and went to the Twin Oak Inn. I arrived there about five minutes past eight and I did not see anyone, so I waited around there and I believe it was twelve minutes past eight when Thiel came in. We said hello to each other and settled down and Thiel ordered a drink, and the first question—

Q. By the way, who paid for all these drinks the first night?—A. Thiel.

Q. I do not suppose either of you drank an awful lot?—A. No; we had about two or three drinks.

Q. Now go ahead with Tuesday night.—A. The first question he asked me was if I was written a letter to Norma Kopp, and I said no, and then he started to question me some more about Norma. He was very inquisitive and anxious to learn all he could about Norma, and I exhausted my mind as well as possible and told him all the details, and then I—oh, and then he asked me what I had been doing in New York all the time, and, well,

I said, "I still have my old job," and I told him that I had
533 tried to get into the Navy Yard but on account of the mistake I had made in the beginning, I had planned as a

flange turner—oh, and then he asked me, "What is going on in New York in general?" Well, I told him, "There is a big bond drive on right now," and I stated the incident you know, that I had slammed the door into a minuteman. "Well, why did you do that?" he said. "Don't you think it is very dangerous to be unpatriotic today?" "Well," I told him, "the man was very provocative and very imposing upon me," that I would have bought something if he had not been so provocative.

"Well," he said, "I believe myself that I am going to buy bonds myself." [Laughter.]

That is what he said. Well, that is a fact. He told me that.

Q. That is all right. Go ahead.—A. It sounds funny, but that is what he has been telling me. Oh, and he asked me about my trip to Buffalo. He told that he had received my letter from Buffalo, where I stated that I had visited Henke and seen Niagara Falls and the friends in Hammond, Indiana, as well as my friends in Chicago—

Q. Now, did there come a time when he said something about Kerling?—A. Yes, sir. That was shortly before nine o'clock.

"At nine o'clock," he said, "you know I am going to see a friend of ours, or a friend of mine, rather"—he meant himself—
534 "he is going to see us tonight. I expect him at nine o'clock."

He said, "Do you remember Eddie Kerling?" He said, "Eddie." He said, "You must have seen him in New York. He went back to Germany with Joe Nussbaum, two years ago." Then I did recall it. I asked "Where did Eddie come from?" He said, "He came over with me. We have come together."

I asked, "What does he want to do here?" He said, "He wanted a change. He disliked Germany and has come to this country," and shortly after that Eddie Kerling—

Q. Before you come to the point where Kerling came in, was anything said about Kerling's wife?—A. No, sir.

Q. I had an impression that Kerling's wife was here, but I am probably wrong about that.—A. Yes. And shortly after that

Kerling showed up and when I saw him face I remembered him; that I had seen him in Joe Nussbaum's barber shop as well as once Werner Thiel had brought him into our apartment—Joe Nussbaum as well as Eddie Kerling. Those are the two occasions I recall having seen him.

So we greeted each other and I said, "What have you brought back to this country? I thought you liked Germany better than America." He said, "No; I have been in Germany for two years now and I found many thing which I disagree upon; one is the coercion that is taking place throughout Germany," he said.

Q. Kerling told you that?—A. Yes, sir. And—well, 535 I asked him, "Tell me something about Germany." "Well,"

he said, "there is not much to tell. There is a lot of"—"There is great"—now, what did he say now? Oh, "we had to hunger awful and all," he said, "and I was always ahead on my rationing cards and very seldom got enough to eat; that is, compared to what we get in this country; and I am very glad to get my juicy steaks as well as my coffee, things I missed completely in Germany."

Then he came to speak about the German people in general. He said that the German people had a completely wrong conception about the American way of living, and the American people in general. He said part of the German people are inclined to believe that a great portion of the American people are back-slapping and tobacco-chewing rustics; and that another portion of the German people believe that they are supermen. "So while I was in Germany I have been trying everything to enlighten the German people what the Americans really are."

Q. Did he say he had much luck?—A. Well, he did not say that. He said he had tried it. Well, we spoke about the causes of the war and I at that time had read a book by a German historian, Ranke—

Q. He is a pretty good historian, too—

The COURT. This is taking so long, so please save your remarks until later.

536 Mr. MEDINA. Yes, Your Honor.

A. (Continuing.) And I quoted several passages from Ranke; you know, that the German Empire was founded too late, that the very stupid policy of the German Kaiser had more or less ruined Germany; if Bismarck had been in Germany another ten years most likely the World War would have been avoided and this one, too, and so we argued the point that the whole history was dependent upon single men, so Kerling did not seem to have much time—I believe he was there about three-quarters of an hour, and he said that he had to leave; he wanted to see his wife; his wife was waiting outside for him, so he stood up, he got

up and he said, "Werner, you pay the bill," and he parted and shook my hand and said, "I hope to see you some other time."

Werner Thiel and I remained there yet some more and I asked Werner Thiel about his experience or about his voyage—

Q. Let me interrupt. Did you have any idea that all these FBI men were around watching you then?—A. Well, I saw quite a few men there who looked suspicious to me, but I did not say anything to Thiel.

Q. All right. Now go right ahead and tell us what the rest of the conversation was.—A. And I liked, or rather I asked Thiel to tell me about his voyage over to Japan and Russia and Germany, so he gave me his version about traveling to Japan. He spoke of the Japanese as very peculiar people. He told me one incident; that he and another German in Japan had traveled in a car and had collided with a truck driven by a Japanese. Now the German was good and mad and had to tell him a piece of his mind, and the Japanese climbed off his truck and came smiling and bowing towards the German, and the German could do nothing else but shake hands, and everything ended in peace, whereas if the Japanese had been a bully as the German, they most likely would have slugged each other. So then he told me about Manchukuo—

Q. About what?—A. About Manchukuo. He had passed through Manchukuo and Siberia, and told me about the vastness of the countries, and Russia in general, what a tremendous country it was, and about the great joy of his mother and brothers and sisters when they had seen him again, and I believe by that time it was quarter past ten, and I told him I had to go home.

Oh, and then he said, "Wait a minute, you know I am going to give you the money." So he went to the men's room and he told me, "I have the money in a belt around my body and I am going to take it off." So I waited about five minutes and he came back and we stood up and he paid the bill later and we walked out and walked towards Third Avenue, over 43rd Street, I believe it was, and he said, "Here is the money. It is in the belt," and I put it in my pocket.

No further words—when he said, "In case I need some money you better not put it all in the safe-deposit box. Leave some in your home in case I need something, you do not need to go to the bank all the time." I said, "O. K."

Q. Did he on the previous evening tell you, or did he tell you on Tuesday evening, that you could take your \$200?—A. Yes, sir.

Q. Which was it? Did he tell you that on both evenings?—A. He told me that on the previous evening and he told me that

this very evening, too; to take off my \$200 which he owed me.

539 Q. Did he say anything on Tuesday evening about Norma except what you have already told us?—A. That was the only time he mentioned Norma; yes, sir.

Q. When you got that money belt with the money in it you were standing right out in the street there, in 43rd Street, were you?—A. That is correct; yes, sir.

Q. And what pocket did you put it in?—A. Well, I do not recall that. I put it in my pocket.

Q. And probably in the ordinary pocket that you have in the side of your coat?—A. That is correct; yes, sir. I believe it was. I don't recall which pocket it was.

Q. When you had that in your pocket what did you then do?—A. Well, I suggested to him to have a cup of coffee. We went to Thompson's and we drank a cup of coffee there and got some pastry, and Thiel told me how glad he was to be back in this country. He said, "That is one thing I have been missing in Germany, American cigarettes and a good cup of coffee." And that is all I recall we had conversed there.

Q. Didn't you talk to him on that Tuesday evening at all about when you were going to see him again?—A. Well, yes; on that occasion you know when we left Thompson's we walked up and down in front of Grand Central station, and he asked me 540 when I would see him again, if I could see him again the next evening. I said no, I didn't feel like it; I didn't have time and I wanted to stay home and do some studying and some reading.

Q. Let me pause there and see about your work. On Tuesday evening you worked, didn't you?—A. That is correct; yes, sir.

Q. What was the schedule of your work in this licorice factory in Brooklyn on Wednesday?—A. It was also during the day.

Q. And you told him that you could not see him or did not want to see him on Wednesday, it would not be convenient for you, and so what arrangement did you make?—A. Well, I told him I could see him again Thursday evening.

Q. Did he have anything to say about that?—A. No; that is 6. K., he said.

Q. It seemed all right to him?—A. Yes, sir.

Q. On Tuesday you have told us I think about how he asked you if you had written to Norma, and you told him that you had not?—A. Yes, sir.

Q. Did he say anything more to you on Tuesday evening about writing to Norma?—A. Yes; he said before he left "Don't forget to write that note to Norma."

Q. After you left him you went back in your room, did you?—

A. Yes, sir.

541. Q. What did you do when you got back to your room?—

A. I took the money belt and put it in my shoe box.

Mr. MEDINA. I would like to have that money belt, please.

(Mr. Correa hands exhibit to Mr. Medina.)

Q. I show you Defendant's Exhibit A. [handing to witness], and ask you if you recognize that as the money belt that you received from Thiel?—A. Well, I don't recognize the belt, but I know it was of similar—I did not pay much attention to the thing at all.

Q. What I am coming to is, there was money actually in this belt?—A. That is correct; yes, sir.

Q. When you got it from Thiel?—A. That is correct.

Q. Did each one of these little compartments have the money in?—A. Well, as much as I do recall, there were a couple of them had money in, I don't think all of them.

Q. When you took it out of your pocket up there in your room you could feel that there was money in it, couldn't you?—A. Yes, sir.

Q. And it was much more bulky than it is now?—A. Yes, sir; it was.

Q. When you folded that up and put it in the shoe box I take it you put it there for some purpose?—A. Yes.

Q. Why did you put it in the shoebox?—A. Well, the 542 original purpose was to shine my shoes with it, as I had it.

Q. Well, but when you had it with the money in there and you put it in there the night you got back from Thiel—A. I took the money out immediately.

Q. Oh, you took the money out immediately?—A. Yes.

Q. So as soon as you got the money out of it you took it and put it in the shoebox?—A. As much as I recall; yes, sir.

Q. What did you do with the money?—A. I put it in my drawer, the brief case of my drawer.

Q. The next morning did you do anything about that money?—A. No; not the next morning. The next morning I went to work, and in the evening—

Q. The next morning was Wednesday, wasn't it?—A. That is correct; yes.

Q. And when you got back from work what did you do?—A. Well, I went to a restaurant to eat and came back and listened to the radio, and finally I counted the money, and I found it to be—

Q. This Wednesday night you counted the money?—A. Correct. I found there was \$3,640 in it.

Mr. MEDINA. May I have that little sheet of paper with the denominations on it? [Mr. Goodkind's hands exhibit to Mr. Medina.]

543 Q. I show you Government's Exhibit 66 [handing to witness]. Is that the little memorandum that you made Wednesday night after you counted the money?—A. Yes; it is.

Q. What did you make that out for?—A. Well, I wanted to show Werner the exact amount of the money, how much was in there, and also deduct the \$200 which he owed me.

Q. You wanted to have a little memorandum?—A. That is right.

Q. To show him the exact situation?—A. So there was no mix-up, to show him what was his and what was mine.

Q. You intended to give Thiel this memorandum, did you?—A. Yes, sir; I did. That is why I carried it with me.

Q. I do not think the jury understands yet about your carrying it with you. What did you do with it after you wrote it out?—A. I put it in my pocketbook.

Q. Put it in your pocketbook?—A. Yes, sir; as I intended to see Thiel, Werner Thiel, Thursday evening.

Q. And I suppose that later, after you were arrested, the FBI men took this out of your pocketbook?—A. That is right.

Q. Did you write this part on the back of this in your own handwriting?—A. Yes, sir; that is my handwriting.

Q. And where it says "Witness, John G. Willis, FBI, 544 NYC," did you see him put it at right on there at the same time?—A. Yes, sir; I did.

Mr. MEDINA. With Your Honor's permission I would like to call this to the attention of the jury. (To jury.) Gentlemen, you probably remember this little slip? It has the indication seventy-one 50's, five 20's, ten 2's, and then the calculation with the deduction of the \$200 there. You see \$3,670 minus 200, leaving 3,470, and the notation, "Eight gold notes."

Then I would like to read to you what is on the back here. This is in Cramer's handwriting, put on there in the presence of Mr. Willis: "August 12, 1942. I hereby identify the writing on the back of this page as my own writing. The figures were made by me to indicate the denominations of each bill given to me by Werner Thiel on June 23, 1942, and the amount of each denomination." The total sum according to these figures amounted to \$3,670. Then it is signed "Anthony Cramer," and over at the left, "Witness: John G. Willis, FBI, N. Y. C."

By Mr. MEDINA:

Q. After you got through doing the counting of the bills and making that memorandum Government's Exhibit 66, did you do anything else that Wednesday evening, the 24th of June?—A. No;

I remained in my room and did some reading, listening to music.

545 Q. Now I have an idea that was the evening you wrote the letter to Norma Kopp.—A. That is correct.

Q. Am I wrong about that?—A. Yes, sir; I did write that.

Q. So the same Wednesday evening you wrote the letter to Norma?—A. Yes, sir; I did.

Q. I show you that letter, Government's Exhibit 75, which includes both the letter and the envelope and the translation [handing to witness], and ask you if you can identify that as the letter you wrote to Norma?—A. Yes, sir; that is my letter.

Q. And do you remember this handwriting that you put on the back of the envelope?—A. Yes; that is my handwriting.

Q. And it says, "Witnesses: M. P. Griffin, John G. Willis."—A. That is right.

Q. Those were the two FBI men who witnessed your writing that on the envelope, weren't they?—A. That is right.

Q. Here on the letter itself—is this also your handwriting and your signature?—A. Yes; it is.

Q. The witnesses are M. P. Griffin and John G. Willis, the FBI men?—A. That is correct.

546 Mr. MEDINA. With Your Honor's leave I shall read this to the jury. [To jury.] Although this letter has been read before, I think it will help the continuity if I read it again. It is quite short. "New York, June 24. Dear Norma: Thank you very much for your dear letter. Since I can well imagine that out there in the country there is not too much variety I shall not leave your letter unanswered. I thought that perhaps you were going to come Sunday, since Herman Tisch told me that you had planned to come Sunday. Perhaps I misunderstood him. When you do come don't waste any time looking me up immediately, because I have great news, and at the same time a pleasant surprise for you. Now you will probably start to guess what this might be, but I shall have to let you sit on pins and needles for the time being. So, Norma, guess away and look forward to news of the most sensational nature and when you come I want you to tell me the result of your guesses. Write me immediately if you are coming so I can be home. In the meantime best regards from Tony."

Now the envelope has on the back in Cramer's handwriting, "August 10, 1942. I hereby identify the handwriting appearing on the other side of this envelope as my own," and he signs it "Anthony Cramer," and that is witnessed by the two FBI men, Mr. Griffin and Mr. Willis.

Then the letter itself, which is all in German; at the bot-

547 tom of it he has again written here, "I hereby identify this as my handwriting in this letter." Signed, "Anthony Cramer," and again witnessed by FBI men Griffin and Willis, with the date August 10, 1942, at the bottom.

By Mr. MEDINA:

Q. Now I notice that that envelope in Government's Exhibit 75 is postmarked 12 o'clock noon June 25th. Didn't you even take the trouble to go out and mail it the evening of the 24th?—A. No, sir. I wrote it, as much as I do recall, and was to take it along in the morning.

Q. You wrote it, put in the envelope, and said to yourself, "I will take it in the morning"?—A. That is correct.

Q. When you went out in the morning did you in the course of the morning drop it in the mailbox somewhere?—A. I don't recall it specifically, but I must have.

Q. You must have.

Mr. MEDINA. The postmark, I may say to the jury, is 12 M., which I take it is 12 noon June 25th.

Q. Now that brings us to Thursday, doesn't it?—A. That is correct; yes.

Q. Thursday is the 25th. What did you do after you got up on Thursday? A. I went to work, to my place of work.

548 Q. No; I do not think you are right about that. I think you went somewhere else when you left your home Thursday, and I do not want you to get it mixed up.—A. Oh yes; that is correct.

The COURT. Mr. Medina, I do not think it is quite proper for you to suggest the proper answer to the witness. These details may or may not be important, but I think it will be much better if you avoid that.

Mr. MEDINA. I am very sorry, Your Honor. I thought everybody knew it was Thursday morning he went to the Corn Exchange Bank and there was no dispute about it, but I will be sure not to do that.

The WITNESS. Yes; I was mistaken. I thought it was Wednesday. Thursday morning. I did not work on Thursday.

Q. So I say—and I did not want to put any words in your mouth—merely tell us what you recall about Thursday morning.—

A. Yes, sir. It seems I did not have to work that day as my shift was going to be from Thursday evening to Friday morning. I went to the Corn Exchange Bank and deposited the money.

Q. Now when you went out of your room to go around to the Corn Exchange Bank did you have the belt Defendant's Exhibit A with you?—A. No, sir; I had that deposited or thrown into my shoe box.

549 Q. You had put that in the shoe box and you left it in the shoe box?—A. That is correct. I put the money in my pocket.

Q. So that when you left your room you did not have the belt, Defendant's Exhibit A, with you?—A. No, sir.

Q. But you did have the money?—A. I did have the money; that is correct.

Q. Now did you have anything else with you?—A. Well, yes; I had a check with me from Hubert Thielmann. I wanted to deposit some money in my name at the bank.

Q. That was a check for \$10 that Hubert Thielmann, as you testified this morning, had sent on account of his indebtedness?—A. That is correct; yes, sir.

Q. Now let me go back. There you were Wednesday night counting over \$3,670 in bills, right?—A. Yes, sir.

Q. Did you have any money of your own in your pocket as you were there that Wednesday night?—A. Yes, sir; I did.

Q. Did you count that too to see exactly how much it was?—A. No, sir; I did not count that.

Q. There was no occasion for that, was there?—A. There was no occasion for that, as I had marked the exact denominations as well as the sum of the money down, and that gave me clarification.

Q. But the fact was that you had some money of your own in your wallet and in your change pocket, but you did not take the trouble to count exactly how much that was?—

550 A. That is correct; yes, sir.

Q. Before you started for the bank, that is for the Corn Exchange Bank Trust Company, did you take any part of that \$3,670 and separate it from the rest before you left your room?—

A. Well, of that I am not quite sure. I do recall that I put some money in a book, "Knowledge of Music" it is entitled, but I am in doubt whether I did it first or did it later. I do not recall that.

Q. As I understand, what you are trying to say is that there was some time when you separated some of this money, but you are not sure whether you did the separation in your room or whether you did the separation over in the bank; is that what you mean to say?—A. Yes, sir; I am not sure about that.

Q. But you are sure I take it that there was a certain amount of money that you took out of the pile of bills and kept out the rest of the bills that you left in the safe-deposit box?—A. Yes, sir.

Q. Now will you tell the jury what your recollection is about the bills you took out, how many there were, the denominations, and all that?—A. I do not recollect very accurately, but I do

551 know that I separated \$150 in the safe-deposit box as belonging to me, and the rest of the money, I do not know the exact amount, which I put into the box, but I have taken

I believe it was \$160 and put these \$160 in a book of mine. It has always been my custom to put money which I kept in my room in a book, and at the same time when I deposited this money I deposited \$40 in my safety account.

Q. Let me take that up step by step, Mr. Cramer, so we won't get it confused.—A. Yes.

Q. You may be right, perhaps we have to take it all together. There was some money that you deposited in the bank that morning, wasn't there?—A. Yes, sir.

Q. Perhaps if we stick to that first it will help clear it better than anything else? How much did you deposit in the Corn Exchange Bank that day according to the deposit slip? What was the full amount covered by the deposit slip?—A. Do you mean money deposited into my savings account?

Q. Well you said that you made a deposit in the Corn Exchange Bank in your account, didn't you?—A. Yes, sir.

Q. That is the account that I have reference to.—A. That was \$40.

Q. Let us see if it was. Do you remember making out a deposit slip?—A. Yes, sir; it was.

Q. You know these deposit slips have little printed matter on—Bills, checks, coin, and so on?—A. Yes, sir.

352 Q. Now I want the total amount of the deposit slip.—A. \$40.

Q. Do you include the \$10 check from Hubert Thielmann?—A. Yes, sir; I do include that. Yes, sir.

Q. That is part of the \$40?—A. Correct; yes, sir.

Q. So that there was a \$10 check from Thielmann and there was \$30 besides?—A. Yes, sir.

Q. Was that \$30 part of the money that you took out of this \$3,670 of Thiels?—A. The \$20 bill.

Q. So \$20 of it went to the bank with the deposits?—A. That is correct.

Q. How about the other \$10, where did that come from?—A. That was money I had saved up.

Q. That was part of the money you had with you and did not get from Thiel at all?—A. No, sir.

Q. If we take \$20 from \$3,670 we get \$3,650 that would be left; don't we? I will come over there so you can see this addition. You see you said a \$20 bill you took out of that lot, so there was \$3,670 and you take \$20 off and that leaves \$3,650.—A. Yes, sir.

Q. Did you do anything with any part of that \$3,650 except putting it in the safe deposit box?—A. Well \$160 I had taken and put into a book that money.

Q. So you say now that \$160 of that you took and put in a book?—A. That is correct.

553 Q. Did you take that \$160 out before you went over to the Corn Exchange Bank?—A. Well, I don't recall that. I do not know. I could not be sure of that.

Q. You are not sure about that?—A. No.

Q. If we take that out that leaves \$3,490, doesn't it?—A. That is correct.

Q. That \$160 you put in that book was all Thiel's wasn't it?—A. Yes; it must have been.

Mr. CORREA. Will you keep your voice up, Mr. Witness, please? Keep your voice up so we can hear you.

Mr. MEDINA. I will get back over here. I will be very glad to do that, and if I need to go up there again I will do it.

Q. Was that \$160 you put in that book all Thiel's?—A. Well, I am not quite sure about this whole money business. I do know I have made a memorandum and this memorandum was always the guiding thing to me, because I knew exactly this is mine and the rest Thiel's. So some of the money I had may have been mixed up with the money I got from Thiel; but that was of no consequence, as I knew exactly how much Thiel had to ask from me.

Q. From this memorandum Governments' Exhibit 66?—A. That is correct.

Q. When you got over there to the safe deposit box you went in there with a view to putting this money in the box, didn't you?—Yes, sir.

Q. You did not have anything else you wanted to put in that box, did you?—A. No, sir.

Q. Did it occur to you that you ought to take this money belt Defendant's Exhibit A and put that in the same deposit box, too?—A. No; that thought never occurred to me.

Q. If you wanted to conceal it anywhere the safe deposit box would have been a good place, wouldn't it?—A. Yes, sir.

Q. When you got in there to the safe deposit box I suppose you opened the little space where your box was and you took the box out and went into one of the little private rooms?—A. Yes; I did that.

Q. Now tell the jury exactly how you arranged that money in the box.—A. Well, as much as I do recall I put the \$150 which was mine of this money into such a position that it could not get mixed up with the rest of the money, and then there were I believe five or six or seven gold notes of which I was in doubt whether that was valid money or not, so I was going to tell Thiel, "You have some money which may not be valid any more, that is why I kept them separated."

555 Q. And you have heard Mr. Willis's testimony, haven't you, that most of the money was in the envelope?—A. Yes, sir.

Mr. MEDINA. May we have that envelope, Mr. Willis, that big brown envelope with the name of that brokerage house on [envelope handed to counsel]?

Mr. MEDINA. If Your Honor please, this morning I had a little talk with Mr. Correa and I think we are both agreed that if we had a short recess in the middle of the morning and afternoon sessions it would be easier for us, of Your Honor feels that it is right that we should do that.

The COURT. I think very frequently you can save time.

Mr. MEDINA. May we do that as the trial progresses, just take about ten minutes in the middle of the morning and the afternoon sessions?

The COURT. You may take a recess now.

(Short recess.)

Q. Now, Mr. Cramer, you put a certain amount of that money in this brown envelope, didn't you?—A. That is right; yes, I did.

Q. Where did that come from?—A. Well, that was an envelope that was in the box. I had bought securities and the firm
556 from which I bought the securities had furnished me this envelope to put them in there.

Q. This envelope had on it "Steiner, Rouse & Company, 25 Broad Street, New York City." Is that the name of the brokerage house from whom you bought those securities?—A. Yes, sir.

Q. I notice there is impressed on this envelope with a rubber stamp two dates, June 30, 1941, and July 3, 1941, and there is also a memorandum in pencil, "6-30-41" meaning June 30, 1941, and I ask you whether June 30, 1941, is about the time that you bought these securities through Steiner, Rouse & Company?—A. That is about the time; yes.

Q. And when those securities, whatever they were, were delivered, they were delivered to you in this envelope which is marked "Registered mail"?—A. Yes; they were.

Q. And did you at some time after June 30, 1941, dispose of those securities, sell them, I mean?—A. I sold them; yes.

Q. And so after you sold them and disposed of them you did not have any more securities left in the box, did you?—A. That is correct, no more.

Q. And at that time all there was left in the box was this envelope?—A. Correct; yes, sir.

Mr. MEDINA. I have arranged with Mr. Correa, through
557 his courtesy, to place upon the record a concession which will save me calling a couple of witnesses, and that concession is that on or about June 30, 1941, the defendant Cramer purchased certain securities from Steiner, Rouse & Company, and that later, and long prior to June 1942, those securities were disposed of by the

defendant through the same brokerage house of Steiner, Rouse & Company.

Mr. CORREA. Yes; if Your Honor please, that is stipulated. We do not especially concede relevancy or materiality, but I do not raise any objection on those grounds either. It is stipulated that that is the fact. If it is important at all we can furnish the date when the securities were disposed of.

Mr. MEDINA. I do not think it makes any difference, and we merely make this stipulation to save the trouble of calling the man from Steiner, Rouse & Company whom we had under subpoena.

Q. Without going into the exact details about those securities, approximately what did they come to? Something like \$500 or \$600?—A. I do not know the exact amount. I believe from \$400 to \$500.

Q. \$400 to \$500 worth of securities?—A. Yes, sir.

Q. And after you sold them you used the proceeds for some purpose or other, did you?—A. Partly yes; and partly I loaned money to my friend.

558 Q. When you say loaned money to your friend, you do not mean Mr. Thiel?—A. No, sir.

Q. It has nothing to do with Mr. Thiel at all?—A. No; Mr. Henke it was.

Mr. MEDINA. I offer in evidence the envelope.

Mr. CORREA. No objection.

(Marked "Defendant's Exhibit G.")

Mr. MEDINA. With Your Honor's permission I should like to not only show this Exhibit G to the jury but at the same time the Government's Exhibit 72 from the Corn Exchange Safe Deposit Company.

Now you gentlemen will observe this is the envelope where he put most of the money in. It was lying in the safe deposit box. It was the only thing in the safe deposit box when he went around there. You will notice down here it has "Registered mail" and these little rubber stamps, June 30, 1941, first notice, and the second July 3, 1941. That exactly coincides with this date of this opening of this box, July 3, 1941, which is the time that he opened the box at the Corn Exchange Safe Deposit Company. It just exactly coincides with this other paper. I will leave these here so if any of you gentlemen want to look at them, you may do so, and then they can be passed back.

559 Q. Now you got over there to the safe deposit box, and as I understand your testimony all there was in the box when you got over there was this envelope, Defendant's Exhibit G?—A. Yes, sir.

Q. Nothing else in there?—A. Nothing else in there.

Q. Now prior to this arrangement that you made with Thiel,

had it been your intention to simply let the yearly rental of that box go and lapse, as we lawyers put it?—A. Well, I intended to put my citizen papers in there and other valuable papers.

Q. You did not have any occasion to keep that safe deposit box or you would not have had any occasion to keep it unless you put this money of Thiel's in it, would you?—A. Yes, sir. Well, I did not know whether I would lapse that or not, as I have my citizen papers and my other papers and I might have rented the box again.

Q. So your statement is, I take it, that you did not think of it one way or another. You may have renewed it and might not?—

A. That is absolutely the meaning of it; yes.

Q. When you got over there that Thursday morning in June, there was this envelope in the bottom of your little box?—A. Yes, sir.

Q. Do you remember how much you paid to rent that box?—A. \$5.00. Yes, sir.

560 Q. Well, it says \$5.00 on the Government's exhibit here?—

A. Does it?

Q. Rent, \$5.00.—A. Then it must be five.

Q. Maybe there was some tax added to that, I do not know.—

A. A dollar for the keys, I believe.

Q. In any event, your recollection is that it cost you \$6?—

A. That is my recollection; Yes, sir.

Q. Now when you got in there with the money in your pocket, how much of it did you put in this envelope, Defendant's Exhibit G. There you are in the little private room in the safe deposit company with this envelope and the money in your hand. How much did you put in the brown envelope?—A. Well, I am unable to tell you that. I do not know. As I stated before, you know my only memorandum or my synopsis about the whole thing was the fact that I had written down the money that belonged to Thiel and so the rest was mine, so I never would have gotten mixed up.

Q. So you could not exactly say how much you put in the brown envelope?—A. No.

Q. Can you say this, that you put most of the money in the brown envelope?—A. Yes, sir; I did.

Q. That left a certain number of bills that you did not put in the brown envelope, Defendant's Exhibit G?—A. Yes, sir.

561 Q. And I ask you if you have any recollection of how you arranged them; these other remaining bills, in that box?—A. As I do recollect, I had three \$50 bills piled in a corner and four or five gold notes piled in the other corner, and the rest of the money was in the envelope. That is my recollection.

Q. Well, I don't want to seem to be stupid about it, but I do not quite understand why where there were eight gold notes, you

should put four or five of them in one pile and the other three or four inside the envelope. Was there some reason for that?—

A. No; but my recollection is very vague about this subject. I am not positive about it.

Q. You know Mr. Willis testified that as he looked at that box when it was opened, a certain amount of money was in the brown envelope and that there were four \$50 bills in one corner and five \$50 bills in the other, but he could not be sure which corner had the four, and which corner had the five bills. Do you remember that or don't you remember his testifying?—A. I do remember his testifying to that.

Q. Does that help you at all to tell the jury how you piled them up in there?—A. No. That is a thing that has completely slipped my mind. I do not know.

Q. In any event, there never was any doubt in your mind
562 that your arrangement with Thiel was that you were to keep \$200 for yourself?—A. Well, that was the main object of my memorandum; to show what was his and what was mine.

Q. And that clearly appears on this memorandum, Government's Exhibit 66, doesn't it?—A. That is correct.

Q. And when you left the safe deposit place what did you then do?—A. I went to bed because I had to work in the evening. This was Thursday.

Q. And I suppose you mailed this letter to Norma. It is post-marked noon, so you probably mailed that after you left the safe deposit box?—A. That is correct; that is the time.

Q. Now, what time did you get up?—A. About five o'clock, as I do remember, and I went out to eat, and it was about quarter to six when I came back, and I listened to the radio, to music, and sat down and read. By about 7:30 I left my house—

Q. That was the night you were to meet Thiel again, wasn't it?—A. That is right; yes, sir.

Q. And you were to meet him where?—A. Thompson's restaurant.

Q. All right. Now go right ahead and tell the jury what you did that Thursday evening.—A. So I went down there and it was
563 about five minutes to eight when I arrived in Thompson's.

I got a cup of coffee and some food, some pastry, and I sat down and drank my coffee and waited.

Q. Without going into every little detail, the fact is that you went down there and waited around and Thiel did not show up?—A. That is correct.

Q. Is that about right?—A. Yes.

Q. And then you went back home?—A. No; not immediately. I thought Thiel might have misunderstood me, that he might per-

haps come around at nine o'clock, so I went to the park near the Library, the City big library, and about five minutes to nine I went back into Thompson's restaurant and I waited another five or ten minutes, and then I knew Thiel would not come, so I went back home again.

Q. Now you did not have any suspicion that he had been arrested in the meantime, I suppose?—A. Well—I had a suspicion that there might be something wrong, but I did not definitely form the thought that he might have gotten arrested. Then again I thought, well, not much can happen to him if he is getting arrested so the next evening, Friday evening—that night I worked in my old place and came home and it was about nine o'clock and slept again for a few hours and in the evening I went down again. I thought perhaps Thiel has misunderstood me altogether, and it comes Friday evening—

564 Q. So this is Friday evening and you go down to Thompson's again?—A. Yes, sir; Friday evening I waited another ten minutes and then I began to have my doubts about what might have happened to Thiel. I thought—then the thought definitely occurred to me, perhaps Thiel is arrested, but I did not pay any further attention to that.

Q. Did you think what he might be arrested for?—A. No, sir. If he was arrested, I thought nothing can happen to him. He has come to this country with no ill purposes, as much as I knew, and the thought I was thinking, all they can do is put him in a concentration camp as an alien. So that same evening Norma Kopp came. I believe it was quarter to nine. I was in my room reading and the doorbell rang and Miss Norma Kopp showed up.

Q. Yes. Now tell the jury your entire conversation that evening with Norma?—A. Well, the first thing I did ask Norma was, "What do you think has happened?" Well, she did not know. So I let her guess, but she did not have the slightest idea.

Q. Well, did she indicate to you in any way that she had received your letter?—A. Oh, yes. She told me that, and she was very anxious to know what had happened. "Well," I said, "Werner is back." Well, she was all excited and jittery. "It cannot be," I do not believe that," I said, "I have seen him."

565 "Well, but how is it possible," she said. "Well," I said, "all I can see is that he has come by submarine. He has not told me so, but that is what I deduce from his manners," and then she said, "Well, I am glad I did not go back to Germany now. We are together again."

Well, we talked. I told him—told her, rather, pardon me—that Eddie Kerling had come along with Werner, so that did not seem to arouse much interest in her, and she did not ask any questions, and I told her he had given me three and a half thousand dollars and

she asked me, "Where did he get the money?" and I said "I have not got the slightest idea where he got it," and we kept on talking and she asked me the question, "Oh, if you think he has come by submarine, where have they come from?" I said "As much as I know from Werner, he mentioned Jacksonville, and that is as near as I have come to his coming to this country." And I told her Werner had promised me to give a full account of his whole story, and a good story at that, he told me. She mentioned "I wonder how they have come," and I said, "If they have come by submarine they have either swam to shore or they have used a rubber boat."

And that was about the whole conversation I have had 566 with Norma Kopp about this particular thing. She was very glad Werner had come back and she started singing and said again and again, "I am glad Werner is back, and everything will be all right. I never believed we would get together again."

Q. Was anything else said between you and Norma that evening?—A. No, sir; nothing pertaining to his coming to this country.

Q. Now what happened after that?—Did she go home or 5 out somewhere or what?—A. Well, I said to her "Let's go to the Kolping House and have a beer. You can see your acquaintances there and friends." She had a few friends there and she was very glad to accommodate, so we went to the Kolping House and I played a couple games of chess and drank a couple glasses of beer and she sat around with her friends and—oh, I forgot to mention that I told her that I had had a date with Werner Thiel on Thursday evening but that he had failed to show up, and that I had been down to Thompson's on Friday evening, too, and I did not see him at all, but I did not convey any of my suspicions to her that he might have become arrested. I did not say anything of that to her, not to frighten or make her feel bad at the time she was in New York.

And by about 10:30 I told her that I was about to leave, going 567 home again, and she said, "Wait a minute, I will be with you. I will go along with you. I want to go home, too."

So I accompanied her to 87th Street corner Second Avenue, and she said, "You know, but how can we meet him now when he has not shown up." "Well," I said, "the only thing to do now is to write him a note. I tell you what I will do, Norma. I am going to write a note tomorrow morning and bring it down to the Hotel Commodore, and write him to meet us tomorrow afternoon at four o'clock, which is Saturday." So "that is fine," she said, "we will do that, and I will come around at three o'clock and we will go together."

Q. Now before you get to the next day, had you told her any-

thing about his using this name of William Thomas?—A. Oh, yes. I have told her that.

Q. Did you explain to her why he was using that?—A. I told her according to his version; he had taken that name not to get into trouble with the draft board, and that is the whole explanation why he used the name of William Thomas. So the next morning I wrote a letter—

Mr. MEDINA. Now may I have the one from the wastebasket [paper handed to counsel].

Q. Now the next morning when you wrote this letter, were you up in your room?—A. Yes, sir.

568 Q. Go ahead and tell the jury about it?—A. Well, I sat down in the morning after breakfast and did as I had promised Norma and wrote the letter, and by about 9:30 I left my room—

Q. I don't want to have you go quite so fast as that. I have here two papers. Now these are both in your handwriting, aren't they?—A. Yes; they are.

Q. What is this first one, Government's Exhibit 56?—A. Well, that is a note I have written to my—to Werner Thiel.

Q. That is not the one you left down at the hotel, is it?—A. I don't think it is, but I am not quite sure about that.

Q. Well, you have now in your hand the one you left in the hotel, Exhibit 67, and I want you tell the jury what is this other one?—A. That is a letter I had written but I disliked the handwriting on it so much—I cannot recall, but I tore it up and wrote this one.

569 Q. Well isn't it a fact that you sat down and you wanted to formulate the letter, and you wrote it out here and then you copied it out afterwards in the form that you later took down to the Commodore?—A. No.

Q. That this was just a kind of rough draft?—A. It was not a copy. I disliked the writing on it, I believe, so I thought I would write it over in somewhat more becoming handwriting. I believe that is the reason.

Q. Didn't you actually finish this first one?—A. Didn't I? I don't know.

Q. I do not see any signature on it?—A. Yes; there (indicating) is a signature.

Q. Is there?—A. Anthony Cramer.

Q. Now let us see. As a matter of fact the signature that you see there is right under the following words, is it not: "August 10, 1942"—no, I beg your pardon, you are right and there is another signature up here, isn't there?—A. Yes, sir.

Q. That I had not seen at first. Whatever it was, after you

wrote this first one did you not have this first one in front of you when you wrote the second one?—A. Well, I may have had that. I am not positive about that. The fact remains that I disliked the writing of the letter, I remember that, and tore it up.

Q. When you tore it up you can see from the way it appears here just where it was torn, can't you? You see it has been pasted together again.—A. Yes; just once.

Q. When you tore it up that way, which looks to me like tearing twice, once across and once the other way—what did you do with it?—A. I think it deposited it in the wastebasket, as much as I remember.

Q. You use that phrase "deposited it in the wastebasket"—A. Threw it.

Q. Threw it in the wastebasket?—A. Yes, sir.

Q. Did you do that for the purpose of concealing it in any way?—A. No; I never thought of that.

Q. And then did you write out afterwards this second one, Exhibit 67?—A. That is correct; yes, sir.

Q. What did you do with this second one Exhibit 67?—A. I put it in an envelope and addressed it to Mr. William Thomas, Commodore Hotel, and put that in my pocket with the intention to deliver it personally.

Q. This envelope that is annexed to Exhibit 67, is that very selfsame envelope, isn't it?—A. Yes; that is the one.

Q. That is the one you put it in?—A. Yes, sir.

Q. I don't suppose you had any reason to write it out on this kind of paper?—A. No, sir.

Q. You just happened to have it handy and wrote it out on that paper?—A. That is correct; yes, sir.

571 Q. What did you do with it when you had it in the envelope there?—A. I went down town to the Commodore Hotel, and went into the entrance, and I must have been wrong.

As I turned around—I went inside and turned around again, because I found out that was wrong, because I wanted to deliver the letter, and in turning around and walking out I bumped into a gentleman which I later on learned was an FBI agent Mr. Willis.

Q. You bumped right into Mr. Willis?—A. Yes.

Q. Did you go right in in a few minutes?—A. I went right back in at the next entrance and delivered the letter to the desk girl.

Mr. MEDINA. With your Honor's permission I would like to comment on these two documents. [To jury:], Gentlemen, this first one is the one he tore up, and you can see what he says, that the handwriting is not quite as smooth as it might be. It seems identical with that one, or substantially so. It says, "Saturday, June 27th. Hello Bill: Can you make it possible to meet me at

4 p. m. today? I will be at Thompson's at this time with Norma. You know the place, right next to the entrance of Grand Central. If this is not"—and then the "to," and he crossed out the "to"—"if possible phone"—and then he has "Atwater" written and copied over, "Atwater 9-9561 at 7 p. m. tonight."

572 By Mr. MEDINA:

Q. Now that was the phone number of the Kolping House, wasn't it, Mr. Cramer?—A. That is correct; yes, sir.

Mr. MEDINA. And then you see at the bottom here "August 10, 1942. I hereby identify the handwriting appearing on this letter as my own." Signed Anthony Cramer, and witnessed before Mr. Griffin and Mr. Willis, the two FBI men. And there is a little note here that I think was placed on there by one of the FBI men which says "Found in wastebasket."

This other one, which is the one actually delivered down there, there is the envelope, a plain envelope that has on it "Mr. William Thomas, Hotel Commodore, City." There are some pencil marks that look as though they have been put on by the hotel clerk. Then on the back "August 10, 1942. I hereby identify the handwriting appearing on the opposite side of this envelope as my own." Signed Anthony Cramer, witnesses Griffin and Willis, the FBI men; and here is the note, which is the same as that other one and I won't bother reading it to you. And again "August 10, 1942. I hereby identify the handwriting appearing on this letter as my own." Signed by Anthony Cramer and witnessed by Mr. Griffin and Mr. Willis, the two FBI men.

573 By Mr. MEDINA:

Q. Now as I understand it you had told or you had discussed with Norma the previous evening the writing of this letter?—A. Yes, sir.

Q. To be addressed to William Thomas, knowing that that was Thiel?—A. Yes, sir.

Q. After you left the Commodore what did you then do?—A. I went back home again and remained at home until about 2 o'clock, and by that time Norma Kopp turned up. She was all dressed up. You know, ready to go with me down town to see Werner Thiel. And I believe it was a quarter past 3 when we left our home.

Q. Was she still claiming that she would not believe that he was here?—A. No; she never claimed that.

Q. You said when you first mentioned it to her she would not believe it?—A. Yes; the first few moments, but she knew me as a trustworthy person and knew she could trust my word.

Q. Aside from what she knew of your being a trustworthy person, did she believe Thiel was really here?—A. Yes; she kept on

repeating "I am so glad I did not go back to Germany, now we are together again."

Q. You say that Saturday she turned up all dressed up to go down with you and meet Thiel?—A. Yes, sir.

574 Q. What did you do?—A. We left my home at quarter past 3 or 20 past 3, I am not sure of the time, and arrived down at Thompson's a little before 4 o'clock. We sat down and had a cup of coffee and some cake and we were discussing whether Werner would turn up or not, and I said "I hope he will come."

Q. Did you tell her all about delivering the note?—A. Yes; I told her that I delivered the note and that I had given the letter to a lady which I believe to be the desk girl, and that I hoped he would receive the letter. So we waited there and she was very jittery and very nervous, expecting Werner, and I believe we sat there 20 minutes and I said, "Well, I believe it has no use—it is of no use to wait any longer, he must have been prevented to come, so you be in the Kolping House tonight and if he should phone up you can receive his phone call." Yes; she would do that then, as I had stated in the letter that Werner should phone up at 7 o'clock and that she would be ready to receive his word if he should telephone. So she went to the Kolping House, and I went back home again and stayed at home until a quarter to 9 and went to the Kolping House.

Q. What were you doing home there in the meantime?—A. Well, I was reading and listening to music and the radio, and doing some work drawing.

575 Q. What do you mean drawing?—A. Oh, I was taking all by myself a course in mechanical drawing.

Q. You were taking a course in mechanical drawing?—A. That is correct.

Q. And you took this time to do a little more drawing with your instruments there?—A. That is correct.

Q. Then you went over to the Kolping House?—A. I went over to the Kolping House, and the first thing I asked Norma when I saw her if she had received word from Werner. She said no. By that time she seemed a little troubled, "I wonder what has happened to Werner," she said. I told her everything will be all right, there is no use worrying about it. So I had met a friend, and we played a couple of games of chess, and we sat down again at the table, and I believe it was 10:30 when a couple of men came in and asked for Cramer, and one of the men asked me to come outside.

Q. And that is when they took you from the Kolping House down here to the FBI room in this building?—A. That is correct.

Q. When they first started to question you here do you remember who it was was doing the questioning?—A. I believe Mr. Ostholthoff or Mr. Willis, I am not positive about it. I was rather excited.

Q. You were a little bit excited there?—A. Yes, sir.

Q. You say it was Mr. Willis, Mr. Ostholthoff and
576 perhaps some others who were questioning you?—A. Well, there were four men if I recall correctly altogether, and everyone did a little questioning.

Q. Now is it a fact that when they first questioned you you lied to them?—A. I did; yes, sir.

Q. And you are charged here with having told certain specific untruths.—A. I did; yes, sir.

Q. And I want to ask you whether you told them these things. That you told them first that Thiel's name was Bill Thomas. Did you tell them that?—A. That is correct; yes, sir.

Q. And that you told them also from March 1941 until June 1942 Thiel had been working in a factory out on the West Coast?—A. Yes; I don't deny that.

Q. And that you told these men that Thiel had not been out of the United States for that period?—A. Yes, sir.

Q. And that you told them that the money belt that Thiel had given you contained only a couple of hundred dollars that Thiel had owed you?—A. Yes, sir.

Q. And finally that the \$3,500 in the safe deposit box belonged to you and no one else and had been obtained by you from the sale of your securities, and was kept there because you considered it safer than a savings bank?—A. That is right.

Q. What did you lie to them that way for?—A. Well,
577 Werner Thiel—I knew Werner Thiel as a man who had had trouble with the Draft Board, and I did not know Werner Thiel as a man who he turned out to be later on, and I tried to protect Werner Thiel's identity because I knew he had had trouble with the Draft Board, and furthermore I knew he had money and that he was an alien, and I knew that his money would be taken away from him as an alien, and I tried to protect his interest as a friend. These were acts nothing but tributes to his friendship. I was completely unaware of his identity as the man he later on turned out to be.

Q. Did you tell these things for the purpose of shielding yourself?—A. No, sir; I was trying to shield Werner.

Q. Did there come a time later on that evening when you were taken into custody when you said something to the effect that you wanted to see Mr. Ostholthoff alone?—A. Well, yes. Mr. Ostholthoff told me "Cramer, you don't seem to realize in what a serious thing you have been involved." Well then it dawned

upon me that something might have been radically wrong. "Well," I said, "if that is the case I am going to tell all I know about it," and requested Mr. Ostholthoff to have the rest of the gentlemen removed out of the room, as I did not want to tell the story to all the men all together. Then Ostholthoff told me 578 "All right, Cramer, if you tell us the whole story this thing will not be mentioned at all, that you have lied to us. I promise you that." And then I told him the story I have told the FBI.

Q. What did you tell him?—A. Well, that Thiel had told me such and such, he had come to this country—

Q. Well, did you specifically admit to them that this fellow's name was really Werner Thiel and not Bill Thomas?—A. Yes; I did tell them that. Yes, sir.

Q. I would rather have you tell the jury in your own language what you told Ostholthoff.—A. I told him of my meeting with Thiel the first time, about the slip of paper I found in my room, and how I met Thiel the first time in Grand Central depot, and that I was thunder-struck to see him and asked him questions "How have you come over here, have you come by submarine?" And that he gave me a startled look, and later on smiled and said, "Some other time I will tell you all about it;" that then we had a conversation at the Twin Oaks.

Q. Did you tell him in substance, but without all the details, just what you have told the jury here today?—A. Yes, sir; I did.

Q. But not so elaborately?—A. No so elaborately; just told him a few things that I knew.

Q. Did you tell Mr. Ostholthoff that Thiel had told you 579 he was over here on a mission from the German government?—A. No, sir; I never told him that.

Q. Do you recall that after you spoke alone there with Mr. Ostholthoff he called the other men back and you were questioned further with the other men there?—A. Well, yes. Then the story as I do recall was in part told over again.

Q. He explained to the other men what you had told him and they had some more questioning, did they?—A. That is correct.

Q. Did there come a time the following morning about 11 o'clock, Sunday morning, when you were questioned further by Mr. Willis and some of these other men?—A. Yes, sir.

Q. Mr. Willis was there all the time except those few moments you were alone with Mr. Ostholthoff, wasn't he?—A. Yes, sir.

Q. Do you recall that on many occasions during the various times that you were questioned the FBI men asked you to write out certain things and sign certain papers?—A. Yes; they did.

Q. Do you recall whether or not some time on that day of Sunday, after you were arrested, that the FBI men pre-

579-A.pared a statement for you to sign?—A. I know they wrote down what I told them.

Q. Perhaps I have not put it right. They wrote down, but didn't they have typewritten out—

Mr. MEDINA. May I have that statement, Mr. Corréa, please?

The COURT. Mr. Medina, we have to adjourn.

(Adjourned to Tuesday, November 17, 1942, at 10:30 a. m.)

NEW YORK, November 17, 1942:

10:30 o'clock, a. m.

Trial resumed.

ANTHONY CRAMER resumed the stand.

Direct examination resumed by Mr. MEDINA:

Q. While Mr. Willis is getting that statement, let me ask you one or two questions. After you lied to these men the first few moments, or the short time that you were there that Saturday evening that you did lie, after that you told them the truth, did you?—A. Yes, sir; I did.

Q. Did there come a time when some one of these FBI men got a stenographer in and dictated something for you to sign?—A. Yes; the next day.

Q. And as a matter of fact you were questioned a good many times in the next few days or weeks after that by these FBI men, weren't you?—A. I was; yes, sir.

Q. And various papers and documents and things from your room were brought down and shown to you?—A. That is correct.

Q. Now is it a fact that every time the FBI men asked you to identify some particular article as yours, that you freely and immediately identified it for them?—A. Yes, sir; I did.

Q. And if he asked you to write out something on a piece of paper that could be connected with that you did so, did you not?—A. Yes, sir.

Q. And when it came to these various writings of yours, when they were first shown to you did you freely and truthfully admit that they were yours?—A. Yes, sir; I did.

Q. And when the FBI men asked you to write out some little legend in your own handwriting identifying those letters or signatures of yours, did you do so?—A. Yes, sir; I did.

Q. Did you make any remonstrance at any time about making such writings as that?—A. None whatsoever.

Q. Now when on that Sunday morning, June 28th, the FBI men dictated this statement that you have spoken about, did they

do the dictating?—A. Well, I am not quite aware of the fact. They asked me questions and I answered them.

Q. They asked you questions and you answered them?—A. That is right.

Q. And then they would dictate and put it down in the statement?—A. That is correct; yes.

582 Q. And is it your understanding that if that statement was prepared that it included everything that they wanted to have in it?—A. Well, yes.

Q. As far as you could tell they had not left out anything, had they?—A. That is correct.

Mr. CORREA. I object, if your Honor please, to leading on this line. Again we have the same thing we had yesterday, except that here I feel we are on a slightly more important topic and that counsel should not be permitted to put the answers into the witness's mouth. I object to any leading on this line.

The COURT. It would be better not to lead at all, Mr. Medina.

Mr. MEDINA. I try not to, your Honor. Sometimes on matters that I do not consider controversial I do it merely to save time, but I shall try to refrain from any leading at all.

By Mr. MEDINA:

Q. I show you this paper [handing to witness]. Do you recognize it?—A. Yes; I do.

Q. What is it?—A. It is the statement I made to the FBI on—

Q. Do you see your handwriting on it anywhere?—A. Yes; at the bottom of each sheet is my handwriting.

583 Q. Do you see any more handwriting on it of yours besides the signatures that appear at the bottom of each page?—A. Well, there is typewritten description on there.

Q. No; I am asking you about your writing, and I do not want to show it to you myself. You look around and see if you find any of your handwriting on there except these signatures at the bottom of the page.—A. Yes; I do.

Q. How did they get on there?—A. Well, they asked me to put it in there, a few statements. I see one of them.

Q. You see them there?—A. Yes, sir.

Q. That is all I asked you about that. Now is it a fact that when that statement was typewritten out by the stenographer that it was brought back and given to you to read over?—A. Yes, sir; it was.

Q. And after you read it over did you yourself suggest adding those parts that are in your handwriting, or did somebody else suggest that?—A. No; someone else has suggested that to me.

Q. And how did that come about? Tell the jury just how that happened.—A. Well, to their meaning something was left out which might have been of importance, and they asked me to put it in there.

Q. And when they asked you to put it in did you put it in in your own handwriting?—A. Surely. Immediately.

MR. MEDINA. I offer this paper in evidence.

584 MR. CORREA. No objection.

(Marked "Defendant's Exhibit C.")

MR. MEDINA. With your Honor's leave I shall read this to the jury. [To jury]: I am going to read this whole statement. It will take me a few minutes, but I wish to do it, and I hope it won't take too long.

(Mr. Medina read Defendant's Exhibit C to the jury, and during the reading at the point "trying to perfect a three-color fountain pen" the following occurred: Q. Now you forgot to tell us about that, didn't you?—A. I forgot all about that.)

MR. CORREA. I object to that, "you forgot to tell us" as distinctly leading, and—

Q. Did you tell us about Dr. Viehaus?—A. No; I did not. I forgot all about that.

(Mr. Medina continues reading Exhibit C.)

Q. Mr. Cramer, are there some things in this statement that you did not mention in your direct examination here yesterday?—

A. Yes; about the rumors.

Q. Without asking you to characterize what the same are, there are some things in here that you did not mention yesterday?—A. That is correct, yes, sir.

Q. I ask you the general question, is everything in this statement true?—A. Yes, sir; to the best of my knowledge.

585 Q. Prior to your arrest on the charge contained in this indictment, had you ever been arrested or accused of any wrongful conduct whatsoever?—A. No, sir.

Q. When you met Thiel at the Grand Central station on the night of June 22, 1942, did you know that he had attended a school for saboteurs in Germany?—A. Never knew it. Never heard of it; no, sir.

Q. Or anything of that character?—A. Nothing of the kind.

Q. Did you know or have any notion that Thiel had come to this country as a secret agent of the German Government for the purpose of doing various acts of sabotage?—A. No, sir; never heard of it.

MR. CORREA. If your Honor please, I object to the question as embodying two questions in one, first, did he know, and second, did he have any notion. I think those two questions should be

put separately and not lumped so the witness may be sure to understand what he is being asked.

Mr. MEDINA. I shall be very glad to do that.

Q. Did you know at the time that you had these dealings with Thiel that he had come to this country as a secret agent of the German government for the purpose of committing various acts of sabotage?—A. No, sir; never did.

586 Q. Did you at that time believe that he had come here from Germany to do any sabotage?—A. None whatsoever; never had the thought.

Q. During the period that elapsed between your meeting with Thiel at the Grand Central Station on June 22nd, and your apprehension by the FBI on Saturday night, June 27th, did Thiel ever tell you, or did you ever learn from any other source what he came to this country for?—A. No, sir; he never did.

Q. But you did not learn it from any other source?—A. Not from any other source.

Q. Is your answer the same as to Kerling?—A. Yes, sir.

Q. Did you at any time believe or have the slightest inkling that in doing these things to help your friend you might be aiding and abetting an enemy of the United States?—A. That thought has never occurred to me.

Q. Did you at any time have any purpose or intent to hurt the United States or to help its enemies in defeating this country?—A. No, sir; never.

Q. Did you at any time have any purpose or intent to adhere to the enemies of the United States and to give them aid or comfort?—A. No, sir; I never have.

Mr. MEDINA. Your witness.

587 Cross examination by Mr. CORREA:

Q. All right, sir; let us go back to one of the earlier parts of your direct examination, Mr. Witness, and let me ask you concerning your membership in the Friends of New Germany. Yesterday on your direct examination according to my notes you were asked the question by your counsel, and I quote it:

"What was it that led you to pull away from that organization?" Referring to the Friends of New Germany. Do you recall being asked that question, sir?—A. I did not like the activities.

Q. No; do you recall being asked the question by Mr. Medina yesterday?—A. No, sir.

Q. Well, perhaps you recall your answer to the question. That may refresh your recollection.—A. Well, yes.

—Q. You answered according to the minutes: "Well, at that time there were quite a few things going on which I disliked.

Swindle—there was a money swindle that occurred in the Bund or Friends of New Germany.” Do you recall that?—A. Yes; I do.

Q. Then your counsel reminded you in his next question that Mr. Willis had testified that you had told Mr. Willis that you had left the Friends of New Germany because you did not like
588 their marching around and their activities.—A. That was in connection with that.

Q. I am not interested in that, but I am interested in knowing your actual reason for leaving the Friends of New Germany.—A. Well, these are the reasons; that I disliked their marchings and activities, and the swindle at the same time when I belonged to the Friends of New Germany.

Q. Isn't it a fact, sir; the swindle is the real reason you left the organization?—A. No; it is not.

Q. Did you ever mention that particular reason to Mr. Willis in any statement made to him?—A. What reason, sir?

Q. The swindle.—A. I do not remember.

Q. Don't you know that you did not, sir?—A. I don't remember that.

Q. Well you did not mention it in the statement which has just been read, that is clear, isn't it?—A. It is; yes.

Q. And you did not mention it at any other time either, did you?—A. I could not tell you.

Q. That just shipped out yesterday, didn't it?—A. No; I would not say that. That is a fact.

Q. Did you take up the reason of marching around and radical activities when you gave the statement to Mr. Willis because it would sound better?—A. No; sir; it was a fact.
589

Q. By the way, were you an officer of the Hammond unit of the Bund?—A. Yes, sir; I was.

Q. What officer were you?—A. I was the secretary or treasurer. That is, I took care of the money.

Q. Secretary and treasurer?—A. No; just the secretary, taking care of the money.

Q. And you kept the dues for the unit?—A. That is correct.

Q. How long did you keep that office, sir?—A. Oh, about half a year.

Q. Between what dates, if you are able to tell us.—A. Well, I am not sure about that. It was I believe at the beginning of 1935.

Q. Now have you ever mentioned that to Mr. Willis or any other government agent, sir?—A. No, sir.

Q. In your statements about the Bund, or your membership in it?—A. I have not, no.

Q. This is the first time you mentioned that?—A. That is correct. I was never asked for that.

Q. Well, you were asked about your membership in the Bund, weren't you, sir?—A. Membership, yes. I was a member—member of the Friends of New Germany, not the Bund.

Q. And you were not asked the specific question were
590 you treasurer of the Bund?—A. That is right.

Q. Therefore you felt you were not called upon to disclose that fact; is that right?—A. I don't know for what reason. I was never asked the question and never paid any attention to it.

Q. Now, sir; concerning your trip to Germany in 1936, how much did that trip cost you?—A. I don't remember. About \$450 or \$500.

Q. \$400?—A. \$450 or \$500. I do not remember.

Q. \$450 or \$500. Was that the round trip?—A. Yes, sir.

Q. Who arranged your trip?—A. I, myself, did.

Q. You made the reservations and all that yourself?—A. Yes, sir.

Q. And where did you get the money?—A. I earned it.

Q. Is that money you saved?—A. That is correct.

Q. At that time in 1936 you had savings of what?—A. Of my income.

Q. Savings of what amount?—I do not think you understood me.—A. Well, I had worked in the place for three years.

Q. I am only trying to get at this; what amount of savings did you have before you made the trip?—A. Oh, I had about as much as I do recall eight or nine hundred dollars.

Q. I see. And out of that you paid for the trip;
591 is that correct?—A. Pardon me?

Q. Out of that you paid for this trip?—A. That is correct; yes, sir.

Q. Did you travel alone or in the company of anyone on that trip?—A. I travelled alone.

Q. You know, do you not, sir, that the German-American Bund as it then was also made a trip to Germany, to the Olympic Games?—A. I knew of that.

Q. You visited Berlin to see the Olympic Games, did you not?—A. That is correct.

Q. Did you see any members of the Bund tour while you were in Berlin?—A. I have; yes, sir.

Q. Which members of the tour did you see, or of the organization?—A. Well, I don't know. I had met them in Chicago in 1935. I do not recall their names.

Q. Well, can you recall any name, sir?—A. No, sir.

Q. Cannot recall a single individual you met?—A. I know Frank Gebhauer; he is one.

Q. Gebhauer?—A. Yes.

Q. Anyone else?—A. No, sir. I believe that is the only one I saw.

Q. Did you know Dr. Willumeit?—A. No, sir; I did not see him.

Q. You know who he is, though, don't you?—A. I have heard of him.

592 Q. Anyone else?—A. No, sir.

Q. Was there not also in that summer a meeting of the Nazi Party at Nuremberg?—A. I was not there; I do not know.

Q. I did not ask you whether you were there, I asked you was there such a meeting, sir?—A. I could not tell you that.

Q. You just do not know. Were you in Nuremberg at all at that time?—A. No, sir; I was not.

Q. Now, sir; coming to your testimony here concerning June of 1942, you testified to us that on June 22 you received this note which told you to come down to Grand Central station to meet Franz from Chicago; is that correct?—A. That is correct.

Q. By the way, was the note in German or in English?—A. In English.

Q. Who is Franz from Chicago?—A. Well, it turned out later to be Werner Thiel.

Q. Whom did you think it was when you received the note?—A. I did not know, sir. I didn't have any thought.

Q. You had no idea at all, sir?—A. No, sir.

Q. You had no idea at all?—A. I had no idea at all who it could be.

Q. This much we can be clear about, can we not—that 593 Werner Thiel's name is not Franz?—A. No, sir; it is not.

Q. Did Werner Thiel ever use the name Franz?—A. No, sir; not that I know.

Q. Is "Franz from Chicago" some kind of code or prearranged identification?—A. Not that I know of.

Q. Between you and Thiel?—A. Not that I know of. I never heard of it.

Q. Had you ever used that particular designation for either yourself or for him?—A. No, sir; never.

Q. What was your thought on the note; did you think it was a practical joke when you received it?—A. I could not tell you; I did not know. The note was not written by me.

Q. You took it seriously at least, didn't you?—A. I did, insofar as I went down to see who it was out of curiosity's sake.

Q. You did not think it was a practical joke?—A. Well, I was not sure myself what it was.

Q. Were you sure the note was for you?—A. Well, it was shoved under my door, and my name was called.

Q. Have you ever had a similar experience before?—A. No, sir; I did not.

Q. Did you receive an anonymous communication ordering you to go somewhere?—A. No, sir; never.

Q. From a person you did not know?—A. No, sir.

594 Q. When Werner Thiel came toward you in the Grand Central station, however, you immediately decided he was Franz from Chicago, didn't you?—A. Well, yes.

Q. You did not wait around to meet someone else, did you, sir?—A. No, sir.

Q. You asked Thiel who put the note under your door?—A. As I do remember, yes; I asked him.

Q. And what did he say to you, sir?—A. Well, some other time he would tell me that.

Q. Did you ask him "Why not tell me now?"—A. No, sir.

Q. Didn't you know at that very moment, Mr. Witness, that Thiel was an enemy and here for no good?—A. No, sir; I did not.

Q. And you knew he was a member of the Nazi party?—A. Well, I had known that; yes.

Q. A violent Nazi?—A. Not a violent one; I had never known him as such.

Q. You say what?—A. I had never known him as a violent man.

Q. Didn't you tell us the other day, though I do not have the exact spot in the minutes at hand but it seemed to me you told us he was a man that adhered very strong to certain ideological views?—A. Well, he was—

Q. Didn't you tell us that, sir?—A. I did tell you that, yes; but not violent.

595 Q. Didn't you tell us he was a man who believed that 200,000 lives could well be spent for the glory and expansion of the nation?—A. That was in 1935.

Q. And didn't you tell us he was a man who became very irritated when opposed in argument?—A. Yes, but that still is not violent as I see it.

Q. Would you describe Thiel as an out and out Nazi—the words that have been used heretofore here?—A. No; I would not.

Q. You would not go along with that definition of him?—A. No, sir.

Q. What would you say he was, a lukewarm Nazi, to use a phrase that was used here?—A. Well, I believe he would never have joined the National Socialist Party if he had not come into

the wrong party, you know. He had friends, other people, who influenced him, and if he had not met these friends he would never join the party. He must have been influenced.

Q. Would you say he was a lukewarm Nazi?—A. Well, I don't know how to describe him, but he was not a radical one.

Q. In other words you did not consider him a very strong Nazi; is that what you are telling us now, sir?—A. Well, I would say that is correct; yes, sir.

Q. Now coming back to where we were at the time you met this man Thiel, the last you had heard from him he had been in Germany?—A. That is right.

Q. And you knew that the minute you saw him; that flashed into your mind, did it not?—A. Yes, sir.

Q. And you knew he had left the United States because he was anxious to get back to Germany before war started with the United States?—A. I did know that; yes, sir.

Q. And you still say at the time you saw him, the very moment you saw him, the thought never crossed your mind that this man was here from Germany for no good purpose as far as this country was concerned?—A. No, sir; I had not that thought. I suspended all doubt until he was going to tell me.

Q. You did not feel that any Nazi recently arrived from Germany in time of war was just on those facts alone an enemy of the United States?—A. I would not say that, but I excepted Werner Thiel. I would not think that of Thiel.

Q. I do not know that that answers my question, sir. Let me put it again. I will put it in the present. Do you not feel now that any Nazi recently arrived from Germany in this country in time of war is, on the face of those facts alone, an enemy of the United States?—A. Well now I feel like that; yes, sir.

Q. But you did not feel like that when you saw Werner Thiel in the Grand Central station a few months ago?—

A. No; I did not.

Q. Is that what you say, sir?—A. That is correct.

Q. Did you ever ask Thiel later why he had written this note?—A. No, sir.

Q. Did you ever ask him why he was so secretive about it?—

A. I never asked him about it.

Q. The note was never discussed with him again?—A. No, we did not discuss it again.

Q. Were you not curious to know why the note was delivered to you in this form and written in this way?—A. No, sir; because the bearer of the note had been described to me by Mr. North as a short fellow who spoke English.

Q. That is why you were not curious?—A. That is right.

Q. Did the description sound like anyone you knew?—A. No, sir.

Q. Weren't you curious as to why if Thiel wanted to get in touch with you he could not do it a little more directly than in this rather mysterious fashion?—A. I had not thought of that.

598 Q. You never asked him beyond that one time at the Grand Central?—A. That is correct; never have asked him again.

Q. And you were not curious about it at all?—A. I forgot about it.

Q. As a matter of fact, sir; did not the very manner in which Thiel got in touch with you give you a clue right at the beginning that he was here on some secret mission?—A. No, sir; it did not.

The COURT. Tell me, how did he get your address since he had been in Germany?

The WITNESS. Your Honor, he had my address from Germany. I had written to Thiel, as it was shown yesterday, a letter, and he knew my address from the letter I had written to Germany, and when he left I was living in the same room where I was living when I met Thiel the first time.

Q. Let me ask you, sir; was this note in Thiel's handwriting?—A. No, sir.

Q. Was it in any handwriting known to you?—A. It was in a handwriting—as much as I do recall, it was in a handwriting I had never seen before.

Q. So that you knew then, didn't you, the minute you met Thiel, that he had colleagues or confederates over here of some
599 kind or other, didn't you.—A. Well, I have that point given no thought whatsoever.

Q. Didn't you know that, sir; at the time you met Thiel?—A. No; I did not know that.

Q. You knew, didn't you, that he had not written the note?—

A. Well, I knew then, yes; but if these men were colleagues of his I did not know, or the man who wrote the note.

Q. Let us say at least he had someone who was willing to help him get in touch with you, isn't that correct?—A. Well, yes; if you follow up that thought that would be.

Q. Didn't that thought occur to you at the time you met in Grand Central Station?—A. No, sir; it did not.

Q. Wasn't this whole thing rather mysterious to you, sir?—

A. Well, in a way, yes, it was. I was surprised to see Thiel.

Q. There was something unusual and mysterious about his appearance in this country?—A. Absolutely, because I did not expect him at all.

Q. And about the manner in which he got in touch with you?—
A. Well, I did not wonder about the manner he got in touch with me, but I wanted to see Thiel.

Q. You did not wonder about the way in which he got in touch with you. That struck you as a perfectly normal way of his getting in touch with you or any of your friends getting in touch with you, is that right?—A. Well, in view of the fact that I 600 was so surprised by the appearance of Thiel, I did not pay any further notice to the note.

Q. By the way, Mr. Witness, you have testified at length here about your various studies and your various occupations and interests. Were you ever interested in law?—A. No, sir; I was not.

Q. Isn't it a fact, sir; that at one time you were particularly interested in the law of treason?—A. No, sir; I have never been interested in that.

Mr. MEDINA. I object to that question, your Honor, so that the record may be clear, and move to strike out the answer. I think your Honor realizes from some statements I have made to you that we are approaching now a matter of considerable significance and I want my record clear.

The COURT. I take it that there is some question of law you would like to discuss?

Mr. MEDINA. Yes, your Honor.

Mr. CORREA. I am going to attempt to impeach the witness on his last answer, Judge. I won't make a specific offer of proof, or I won't if counsel has objection, I will put it that way, until your Honor has ruled.

The COURT. I will excuse the jury so that the matter may be discussed.

(Jury retired.)

601 Mr. CORREA. I should like to state my position, your Honor.

This is an exceedingly important matter, and, as we are now approaching it, I should prefer not to have the witness hear this discussion in view of the situation. I suggest—

The COURT. Would you like him to retire?

Mr. MEDINA. It is agreeable to me that Mr. Cramer be taken to the witness room opposite, so the discussion goes on in his absence.

Mr. CORREA. Either that, or we have a discussion at the bench; one or the other, Judge.

Mr. MEDINA. Mr. Minton calls my attention to the fact that no part of the trial may properly proceed in the absence of the defendant and that I may not consent to that, so I withdraw that statement.

The COURT. We are discussing a question purely of law.

Mr. CORREA. I think that is really as to the taking of proof, because that is based on the principle of confrontation of witnesses or by witnesses.

Mr. MEDINA. I want to take an absolutely correct position in this case, and if it be, as Mr. Minton indicates to me, that we have no right to consent to have any part of this trial proceed in the absence of Mr. Cramer, I am not going to consent that he be taken out. Someone might take the position that we had
602 waived some constitutional right of Mr. Cramer, and I do not intend to waive anything.

The COURT. If you wish to discuss it, go ahead.

Mr. CORREA. If your Honor please, we are going to offer proof to show that this defendant some time prior to the crime charged in the indictment, specifically adverted to the particular provision of the Constitution of the United States which defines the law of treason. As your Honor is aware, that provision is defined in the Constitution in practically the same words as those in which it appears in Section 1, Title 18.

Now, I have asked the defendant, and I have laid a foundation isn't it a fact that he was particularly interested at one time or another in the law of treason, and he has denied that. Now, I propose to introduce the exhibit by way of impeaching his last answer.

The COURT. I think it probably would be very well to look at this article.

Mr. CORREA. I will be glad to show the exhibit, which is Government's Exhibit 53 for identification, to the Court, if I may I should like to point out the specific portions to which I am referring.

The COURT. Do you want to see this, Mr. Medina?

Mr. MEDINA. Oh, I am thoroughly familiar with it, your Honor.

603 (Mr. Correa indicated portions to the Court.)

The COURT. What do you wish to say, Mr. Medina?

Mr. MEDINA. I have this to say, your Honor: This is a newspaper containing a copy of the Constitution of the United States. I believe if this paper gets before the jury here there will be before them a piece of evidence of absolutely no probative value on these issues whatsoever, or if it have some slight probative value, it will be so insignificant as to be out of proportion to the emotional value, to the nonjudicial value. This paper is dynamite and it has absolutely no judicial worth whatsoever.

The COURT. If it is dynamite, he created it.

Mr. MEDINA. If your Honor please, he did not create it, and I dispute that. I say there is no principle better known in the

law than that is some piece of evidence of no judicial worth, of no rational probative force whatever, if put before a jury, where for other reasons, other reasons having no relation to probative value, nevertheless the evidence is admitted, then the error is prejudicial because the law takes cognizance of the fact that there are things that, as I describe it, are full of dynamite; that have an emotional appeal; that have an effect upon human beings out of proportion to their true judicial worth, and the law of 604 relevancy says that in such cases the evidence must be excluded lest prejudice and harm to a defendant result.

Now, all that appears from this paper is that in going over this copy of the Constitution the defendant has placed some ink marks opposite about a dozen different portions of the Constitution. It so happens that one of those is opposite the provision applicable to treason, way back here in 1937, and the evidence given by Mr. Willis, as part of the Government's case, was that the defendant had stated he had put those on 150 years before, or maybe a year and a half before June 1942, and so we say that if merely putting some ink marks opposite a considerable number of sections of the Constitution years before a particular crime is supposed to have been committed, and then the fact that one of those lines is opposite the particular crime for which the defendant is later charged, is to be placed before a jury, grave harm and prejudice will result. And I say this beyond. If this question to Mr. Cramer as to whether he studied law is going to be any foundation, I say, with all due respect for my learned adversary, that that is sheer pretense. That is used as a means, used as I think an improper means. He does not really want to put this in for the purpose of impeaching Mr. Cramer's statement that he never studied law and he never made any study of the law 605 of treason, that cannot be it at all. Facing the problem squarely as one of relevancy, we say that this is a most prejudicial piece of evidence and we are going to object to it, and that is why at the very threshold of it here, when the first point came in about it, I raised it, so that my record might be clear.

MR. CORREA. If your Honor please, it seems to me that counsel's argument in opposition to this offer has consisted mostly in characterization of it as not relevant and not having probative force without any very clear statement as to why in counsel's view those things are so concerning the offered evidence.

I point out to the Court first that of course I wish to offer the exhibit to impeach the witness, for had the witness admitted that he had given particular attention to the law of treason at some time prior to the commission of this crime I would not need the exhibit for that purpose. I do conceive it to be of probative

value and probative force in this case that this witness had in mind at the time these events, which are the subject of the indictment here occurred, what the law of treason was. I point out to your Honor that among the very last questions asked the witness on his direct examination this morning were questions to the effect,

606 did you have any thought of adhering to an enemy of the United States; or, did you think that anything you were doing would aid and comfort enemies of the United States; and similar questions couched in the verbiage of the statute and of the Constitution itself, and to all of those the witness replied, of course as might be expected, that he did not.

Now, I submit that apart from its general relevancy and probative force, the direct examination itself has strengthened and confirmed the relevancy and materiality of the offered evidence, and I press my offer.

The WITNESS. Your Honor, will you let me—

Mr. MEDINA. No, Mr. Cramer, you just stay right there and keep your mouth shut.

The COURT. There is nothing for the Court to rule upon as yet.

Mr. MEDINA. I believe the offer has just been made of the document, has it not?

Mr. CORREA. No; that is not correct.

The COURT. But so that you may know and we won't have to excuse the jury again, if a proper foundation is made I will receive the paper in evidence.

Mr. MEDINA. That "if" puzzles me, your Honor.

The COURT. It has not as yet been shown.

Mr. MEDINA. Thank you, your Honor.

607 The COURT. Don't be misled by it. I anticipate that with a few questions that the foundation will be laid.

Mr. MEDINA. But I take it that your Honor rules at the present moment no foundation has been laid for the paper.

The COURT. Of course they have not shown where the paper came from or showed about the marks on it.

Mr. MEDINA. Yes, they have. Let us not pass in a fog. They have shown by Mr. Willis that this witness, the defendant, told him that he had put those ink marks on here either two years before June or about a year and a half before June 1942, and that paper has already been identified and it is marked as an exhibit for identification.

The COURT. If it is shown, as you say it has been, that those marks were put on it by the defendant and it was found in his room, I shall admit it as material and relevant.

Mr. MEDINA. And I take it your Honor does not admit it because Mr. Cramer said he had not studied law and had not studied up the law of treason.

The COURT. I am not going to limit the grounds on which I receive it.

Mr. CORREA. The foundation question, Judge, was this: You were particularly interested in the law of treason, were you not; to which the witness said, No.

608 Mr. MEDINA. Well, I objected, your Honor, you remember, to that question, and I moved to strike out the answer.

The COURT. The motion is denied.

Mr. MEDINA. Exception.

(Short recess.)

(The jury returned to the jury box.)

By Mr. CORREA:

Q. Isn't it true, sir, that there came a time when you were particularly interested in the law of treason?—A. No, sir.

Q. Didn't you consider specifically at one time the provisions of the Constitution of the United States relating to the law of treason?

Mr. MEDINA. I object to that, your Honor.

The COURT. Objection overruled.

Mr. MEDINA. Exception.

A. Will you please repeat that question?

Q. (Read.) A no, sir; I have never considered that.

Q. They have never been brought to your attention; is that your testimony?—A. No, sir.

Q. Well I show you Government's Exhibit 55 for identification [handing to witness], and ask you first, sir, is that a 600 paper which you kept in and about your room?—A. I found that; yes.

Q. Well, can you answer my question: Is it a paper which you kept around your room?—A. Yes, it is.

Q. I direct your attention specifically to certain ink lining—A. Yes, sir.

Q. Which appears on the next to the fourth column of type from the left on the exhibit, and ask you did you place that there, sir?—A. I remember to have placed it there.

Q. Well, is your answer yes?—A. Yes, sir.

Q. When did you place it there, sir?—A. Well, I do not recall the time. About two years or two years and a half.

Q. And is that your best estimate as to the time?—A. Yes. I hardly remember the time.

Q. You placed other markings on this paper, did you not, sir?—A. Yes, sir.

Q. In ink?—A. In ink.

Q. Were they all placed there at the same time or at different times?—A. Yes, sir; at the same time.

Q. And you cannot recall at what time you made those markings; is that it?—A. No, sir; I cannot.

Mr. MEDINA. All of the reference to the perpendicular lines?

Mr. CORREA. That is right; to every marking in 610 ink made by the defendant on the exhibit.

Mr. MEDINA. I had in mind that there is another little thing there on the first column that I do not believe is claimed as in his handwriting, but just the perpendicular lines.

By Mr. CORREA:

Q. I direct your attention to what counsel has called this other little thing on this column, and ask you, sir; did you make that writing?—A. Not that I do, no.

Q. Do you know who did?—A. No, sir; I do not.

Q. Was it there when you first acquired possession of this paper?—A. I do not know that.

Q. Was it placed there after it was in your possession?—A. I do not know that.

Q. You do not know what the significance of that is?—A. No, sir.

Q. You don't recall seeing it there before?—A. No, sir.

Q. Now, sir; you were shown this paper by Mr. Willis, weren't you?—A. Yes, sir.

Q. Weren't you asked the same question about the particular ink lining to which I direct your attention, as to when you made it?—A. Yes, sir.

Q. Didn't you tell him you made it a year or two years before this summer?—A. Yes, sir.

611 Q. And is that a correct statement of fact?—A. Yes, sir.

Mr. CORREA. I offer in evidence Government's Exhibit 55 for identification.

Mr. MEDINA. I object to that as irrelevant and immaterial, as having no probative force whatever; and upon the further ground that if it should be deemed to have any slight probative value that is far outweighed by its atmospheric value, which I claim will be highly prejudicial. It is irrelevant and should be excluded.

The COURT. This is Exhibit 55 for identification?

Mr. MEDINA. Yes; your Honor.

The COURT. And 55-A for identification, is it?

Mr. CORREA. Exhibit 55-A for identification was a handwriting standard, if my recollection serves me, and offered as such.

The COURT. I am not sure about it.

Mr. MEDINA. I believe Exhibit 55-A is a little paper signed by Mr. Cramer, indicating that he made the lines on this Exhibit 55.

Mr. CORREA. That is correct, Judge, it is; and I think we of-

ferred it before and it was received in evidence as a handwriting standard.

Mr. MEDINA. Yes.

Mr. CORREA. Now, I will offer the exhibit without limitation at this time—which is a reoffer, because it was received heretofore with a limitation.

The COURT. That is Exhibit 55 for identification and also 55-A—

Mr. CORREA. In evidence, which was offered without limitation. In other words this is reoffered.

Mr. MEDINA. I object to both, as they relate to the same thing, and I have already stated the grounds of my objection, your Honor.

The COURT. They are received in evidence.

Mr. MEDINA. I respectfully except.

(Government's Exhibits 55 for identification now marked in evidence.)

Mr. CORREA (to jury). Members of the jury, Government's Exhibit 55 in evidence is a page of the New York Times of date Friday, September 17, 1937. As you can see, the page sets forth the Constitution of the United States in full. Now, you will also note that there appear on this page certain linings in ink. Some of it is underlining and most of it is marginal. There is this writing here in the lower part of the first column, which the witness states he knows nothing about. The other lining the witness has stated was made by him. I wish particularly to direct your attention to the lining about which the witness was 613 interrogated, appearing in the fourth column, over opposite Section 3. It is Section 3 of Article III of the Constitution. That section reads:

"1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

"2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted."

The other part of the exhibit, which is 55-A, has this writing which has heretofore been identified as being in the handwriting of the defendant, and reads: "August 12, 1942. I hereby identify a page from the New York Times newspaper dated Friday, September 17, 1937, as having been part of a newspaper obtained by me on a date which I do not recall. The lines appearing on the page of the New York Times were made by me in ink. Anthony Cramer. Witness: John G. Willis, FBI, New York City."

You might look at the interlineation that appears on the exhibit itself.

614 I should like to direct the attention of the jurors to certain things on that same page, and I wonder if it is to be passed among them, as doubtless it will, if it would not be within my right to ask the privilege to call their attention now to the other portions of this exhibit before they look at it.

The COURT. I think it would be.

Mr. MEDINA (to jury). If you gentlemen will permit me to have this just a second. Your attention has been called to the provision about treason. Now I would like you gentlemen when you examine this to notice that there are several other places where Mr. Cramer has made marks also. He did not just mark the one about treason, but he has marked a lot of the others, and I want to just call them to your attention here. I will have to get my glasses out to do this.

Now for instance—and I will hand this to the foreman to be passed around, but I have to sort of lean over this way so I can read it—under Section 9 here he has put these marks around the following:

"The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety shall require it."

"No bill of attainder"—

615 and then he has underlined "or ex post facto law shall be passed."

Then down here there is another one in that same Section 9:

"No title of nobility shall be granted by the United States. And no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office or title of any kind whatever from any king, prince, or foreign state."

Then he has also marked up here under Section 8, which defines the powers of Congress; one of them that he has marked is:

"To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water."

And then he has also got a mark over here that you may see, that goes over this way, in which he has indicated the oath of office of the President of the United States, which is as follows here. It says:

"Before he enter on the execution of his office he" meaning the President, "shall take the following oath or affirmation: I do, solemnly swear or affirm that I will faithfully execute the office of President of the United States and will to the best of my ability preserve, protect, and defend the Constitution of the United States."

And then over here he has got another one under Section 7. It says:

"If any bill shall not be returned by the President"—

And then he has evidently underlined "within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return; in which case it shall not be a law."

And so there are a few others, but I wanted you to realize that he did not just mark that one article on treason, but a number of others of the character that I have referred to.

Mr. CORREA. In view of counsel's last statement, which is in the nature of argument, if your Honor please, may I also state that the exhibit is offered specifically at this time in view of the fact that the witness just now on the stand denied the provisions of the Constitution respecting treason had ever come to his attention, and denied that categorically.

617 Mr. MEDINA. I thought it was whether it had been brought to his attention. I wonder if we might not have the stenographer read it.

Mr. CORREA. I do not think the witness intended such a quibble in his answer.

Mr. MEDINA. I do not consider it a quibble.

(The stenographer then read the questions referred to as follows:

"Q. Isn't it true, sir, that there came a time when you were particularly interested in the law of treason?—A. No, sir.

"Q. Didn't you consider specifically at one time the provisions of the Constitution of the United States relating to the law of treason?—A. No, sir; I have never considered that.

"Q. They have never been brought to your attention; is that your testimony?—A. No, sir.")

Mr. MEDINA. "Never been brought to your attention"—so I was right in what I said.

Mr. CORREA. That is a mere quibble.

Mr. MEDINA. No; it is not a quibble. They had never been brought to your attention—that is very different.

Mr. CORREA. Judge, I will stand on the record as it is.

618 Mr. MEDINA. If that is a quibble I will stand on it too.

By Mr. CORREA:

Q. By the way, Mr. Witness, is that what you meant when I asked you had the provisions of the Constitution respecting the law of treason ever been brought to your attention? Did you say no because—A. May I explain, your Honor? May I explain, your Honor?

The COURT. You better answer the question.

Q. Did you say no because I did not ask you whether they had ever come to your attention?—A. I was under the impression that you meant I had studied them. I do not recall the time I read it; I do not even recall the time I marked it.

Q. Suppose I ask you the question did those provisions ever come to your attention, would you answer that differently than "brought to your attention"?—A. At a time; yes, they have.

Q. In other words, you would answer that differently from the question "brought to your attention"?—A. Well, yes.

Q. You feel there is an important difference there; is that correct?—A. I thought you meant to imply that I studied these things, and I have not studied them.

Mr. CORREA. I have some more examination on this paper, Judge, but I think I will wait a moment to have the jury look at the exhibit itself.

619 The COURT. Yes; give them an opportunity to look at it.

Q. Now, sir, when did you place this—or rather I withdraw that, because I think I have asked you. You say what you told Mr. Willis was true, is that right, about when you placed these markings on this paper?—A. Yes, sir.

Q. And you told him it was between a year and two years prior to the date of your interview with him; is that correct?—A. Yes, sir.

Q. And your interview with him was in August of this year; is that right, sir?—A. I think it is right; yes, sir.

Q. That would mean you placed the markings on here in the early part of the year 1941?—A. I do not recall the time when it was.

Q. You told Mr. Willis between a year and two years, and you told him that in August of this year. Now going back a year would bring you to August 1941, wouldn't it?—A. That is correct.

Q. And then another half year since you said between a year and two years, would bring you into the early months of 1941?—A. Correct.

Q. That is about the time Werner Thiel went to Germany, isn't it?—A. That is right; yes, sir.

Q. Was there anything said between you and Thiel on the occasion of your last meetings before he left this
620 country in 1941 which caused you to examine these sections of the Constitution relating to treason?—A. No, sir.

Q. Or habeas corpus?—A. No, sir. I am positive that these marks were made before Thiel left Germany.

Q. Before Thiel left?—A. Before Thiel left for Germany.

Q. "For Germany." Was it just before he left, sir?—A. I do not recall the time. I really do not know that. I do recall that it was before that.

Q. And can you tell us, whenever the time was, or whatever the time was when you placed that marking next to the provision of the Constitution relating to the law of treason, what then was your interest in that provision of the Constitution?—A. It is my habit whenever I read, when something strikes my imagination or my curiosity, that I mark a paragraph, and I don't know for what reason I have marked it. Most likely for the same reasons that I had marked other paragraphs.

Q. We are now interested, sir, in your reason for marking this particular paragraph, the paragraph relating to the law of treason.—A. I do not know; I have not the slightest idea. I cannot recall it at all.

Q. Because although there are other paragraphs marked, 621 there are a great many paragraphs not marked; is that right?—A. That is correct.

Q. Therefore there must have been something about this particular provision Section 3 of Article III, the law relating to treason, which as you put it captured your imagination or your curiosity.—A. Mm-hm; yes, sir.

Q. What I am trying to find out is what was it made you interested at that time in the law of treason?—A. I could not tell you. I do not recall the time I marked it, and I do not recall for what purpose I did it.

Q. Let me ask you this, sir; Was it because of the fact that at that time you were very—you felt very strongly?—A. Strongly about what?

Q. About Germany's position in the then war?—A. No sir.

Q. Was it because you apprehended this country and Germany would soon be at war?—A. I do not know the reason. I know that none of these reasons mentioned were the cause for marking it.

Q. Whether or not they are the cause, it is true that at that time you felt very strongly in sympathy with Germany's position in the then war, did you not?

Mr. MEDINA. I object to that, your Honor. There was not any war then as I understand it.

Mr. CORREA. There was a war, if your Honor please. 622

The COURT. I think the question is clear.

Mr. CORREA. I have said the "then war" to try to distinguish it.

The COURT. If the witness does not understand it he can say so.

Mr. MEDINA. The words "the then war" are clear, your Honor, but it is not clear in connection with the testimony of the witness as to when he marked the paper.

Mr. CORREA. If your Honor please, I think I am entitled to ask any proper question on cross-examination. I ask that the question be read.

Mr. MEDINA. I withdraw the objection.

(The question was read as follows:

"Q. Whether or not they are the cause, it is true that at that time you felt very strongly in sympathy with Germany's position in the then war, did you not?"

A. No, sir.

623 Q. Didn't you feel, sir, that the "glorious German army was making gigantic sacrifices for the homeland"?—A. I have been very little interested in Germany's war. My interests are in this country; have always been.

Q. Did you feel that, sir?—A. Pardon me?

Q. Did you feel that, as I have stated, "the glorious disciplined German army was making gigantic sacrifices for the homeland"—your homeland?—A. Well, if I have mentioned that, that may have been a piece of braggadocio; I may have never felt about it.

Q. What do you mean by "may have been braggadocio"; bragging about the German army?—A. A piece of flourishing statement; nothing else.

Q. In other words, if you said that you did not mean it, is that correct?—A. Well, not the emphasis that seems to be in those words.

Q. You did not mean what the words say, is that what you are telling us, sir?—A. Well, this is such a long time ago I do not recall exactly what kind of feelings I had when I meant and wrote those words.

Q. Do you recall whether or not, so there may be no doubt about it, I refer to Government's Exhibit 69 in evidence, and particularly to those words, "personally I am still well and spending my days really much too pleasantly in view of the gigantic sacrifices which the glorious disciplined German army is making from day to day for the homeland"? 624

Mr. MEDINA. May it appear what the number of the exhibit is.

Mr. CORREA. I just stated it was 69; 69—A is the translation.

Mr. MEDINA. And that is that letter?

Mr. CORREA. It is a letter to the family of Heinrich Cramer. That is the Cramer letter dated December 3, 1941.

Q. Now did you mean what you said there, sir?—A. Well, I must have.

Q. You did, didn't you?—A. I have confirmed that; yes.

Q. Were not you apprehensive as well in 1941 that the United States and Germany would be at war?—A. I never thought of that. I never have considered. I would not—I never thought it would come to a war rather.

The COURT. The date of that letter was December 3rd?

Mr. CORREA. December 3, 1941, if your Honor please.

Q. Were not you apprehensive, sir, that there would be war between the United States and Germany?—A. No, sir.

Q. I will come to that later, but let me ask you, did your feeling about Germany's position in the war have
625 anything to do with your marking of this provision of the Constitution?—A. I am positive it had not; no, sir.

Q. Did it have anything to do with your marking the provision of the Constitution relating to the ratifying of war by Congress?—A. No, sir.

Q. Did it have anything to do with your marking that provision of the Constitution relating to the writ of habeas corpus?—A. No, sir.

Q. Now, sir, let me ask you concerning this money belt: you stated on direct examination that you placed Thiel's money belt in your shoe box because you intended to use it for shining your shoes, is that correct?—A. That is correct; yes, sir.

Q. Now you have described, sir, many lengthy interviews that you had with Mr. Willis and other FBI agents, have you not?—A. Yes, sir.

Q. Did you at any such interview ever advance the suggestion that you were going to use this money belt for shining your shoes?—A. I do not know that.

Q. Don't you know that you did not, sir?—A. I have never been asked about the specific purpose.

Q. Is it true that you never mentioned that in connection with anything you said about the money belt?—A. That is correct.

Q. Prior to mentioning it here in court.—A. Well,
626 I have been intending to use this belt as a shoe shiner.

Q. That is not what I asked you. I asked you, have you ever mentioned it heretofore, before your testimony here in court?—A. I do not know that.

Mr. MEDINA. You mean to the Government men?

Mr. CORREA. I would like the witness to answer, seeing my question is clear.

Q. You say you do not know whether you ever mentioned it or not?—A. I do not recall that; no.

Q. Now, sir, when was the first time you put that money belt into your shoe box?—A. I believe it was—I am sure it was the evening of June 23rd, when I met Thiel.

Q. And when you came back home you put the money belt in your shoe box; is that correct?—A. I did.

Q. Isn't it a fact, sir, at that time it had \$3,500 in American currency in it?—A. That is correct.

Q. Now certainly at the time you put the money belt with the \$3,500 into your shoe box, you did not intend to shine the shoes

with it?—A. I took the money out of the belt the very same evening and put it in my drawer and put the belt back in the shoe box.

Q. Now, sir, that is not what you told the FBI, is it?—A. But it is a fact. I have been pondering about this thing.

Q. I would like to ask you first, is that what you told the FBI?—A. I do not recall that.

Q. Don't you recall what you told the FBI on this subject, sir?—A. Yes.

Q. You heard it read by your counsel here this morning, didn't you?—A. Yes; I do.

Q. You know that you told the FBI that you put the money belt in the shoebox on Tuesday night, the 23rd?—A. Yes.

Q. And that before you went to work, that on the 24th, rather, when you came home from work, that you took the money belt out and took the money out of it and counted it?—A. No; I counted it immediately, the same evening, and put the money in a drawer and put the money in a shoe box.

Q. Didn't you tell this to the FBI, sir—what I am stating to you now?—A. I think I did.

Q. Is there any doubt about it, sir?—A. Well, yes.

Q. I will show you your Exhibit C in evidence, and I direct your attention to the language appearing at the bottom of page 5, the last line, sir, "When I arrived home I put the"—and then continuing on the top of page 6 and down as far as it goes on that subject [handing exhibit to witness]?—A. The fact is that I have counted that money immediately when I came home and put the money out of the belt in my drawer, and put the belt back in my shoebox. I was a little confused at that time about this.

Mr. CORREA. I move to strike out the answer and ask that the question be read.

The COURT. Strike it out.

Mr. MEDINA. When he says "I was a little confused about this," may not that remain?

The COURT. I do not think that is an answer.

Mr. MEDINA. Exception.

Q. (Question read.)

Q. There is no question there. I was directing the witness's attention to the exhibit and I wanted to ask him a question on it. Isn't it a fact, sir, that you told the FBI and told them very specifically that you had put the money belt with the money in it into your shoebox and then put the box under the radio? Isn't that what you told them?—A. Yes, sir; it is.

Q. And you described to them taking the money belt out of

the shoebox on two occasions; once on the 24th and once on the morning of the 25th, isn't that correct?—A. Yes, sir.

Q. And on each occasion you said you took the money out, on the first occasion to count it, and on the second occasion to take it to the bank, isn't that right?—A. That is what I said.

Q. And you now say that that statement which you gave
629 the FBI was not the fact?—A. That is correct; yes, sir.

Q. And that the fact is otherwise?—A. That the fact remains that I took out the money immediately and put in the drawer and put the belt in my shoebox. I have been thinking about that because on account of the accuracy of the statement required.

Q. Are you answering a question of mine, sir?—A. Pardon me?

Q. Are you answering a question of mine?—A. Yes, sir.

Q. Now, sir, isn't it a fact that when you replaced the money belt in your shoebox after you had taken the money out, you did that for the purpose of concealing the belt?—A. No, sir; it is not.

Q. And isn't it a fact that since you made the statement to the FBI it has occurred to you that that is incriminating and you thought up this explanation about shining your shoes and you have changed your story to fit it, isn't that the fact?—A. No; I have never thought of that.

Q. You say that is not the reason you changed your story?—A. No, sir. The reason is that I put the money in my drawer—

Q. Now, sir, I show you the money belt which we have been talking about, which has been marked Exhibit A. Can you
630 recall the testimony of one of the witnesses here that there were certain initials that had been rubbed out, appearing at the end of the money belt?—A. I have heard the man say that.

Q. Did you rub the initials out, sir?—A. No, sir; I did not.

Q. Did you discuss with Thiel the fact that his initials were on this money belt?—A. No, sir; never knew about it.

Q. Did you notice any initials on the money belt when you received it?—A. No, sir.

Q. Did Thiel tell you that he had erased these initials on the money belt?—A. No, sir; he did not.

Q. Now isn't it true, sir, that your first thought about Thiel's mission over here was that it was a violent one?—A. I beg your pardon?

Q. Isn't it true that your first thought concerning Thiel's mission over here was that it was some mission of violence?—A. No, sir; that has not occurred to me.

Q. Isn't it a fact, sir, that it was your thought that Thiel would not have been given money by the German government unless his mission was a violent one?—A. No, sir. That thought has not occurred to me.

Q. Now, sir, didn't you make this statement to the FBI in which you say, referring to the money Thiel had, and I quote from
631 page 5 of the statement which is Defendant's Exhibit C in evidence: "At this time"—referring to the time you received the money belt from Thiel on the 23rd—"I thought that he might have gotten the money from the German government but I rejected this thought because Thiel was inconsequential so far as violent acts and deeds injurious to persons and property are concerned." Wasn't that your statement, sir?—A. Yes, sir.

Q. You have the statement before you. I am reading from page 5. You may look at it. Do you see the part I have just read to you; that is the second full paragraph down on that page?—A. Yes, sir.

Q. Now, sir, I ask you again, isn't it a fact that your first thought concerning Thiel's mission was that it was a violent mission for which he had this money from the German government, and didn't you reject that because you felt that Thiel was no good at violence, according to your statement?—A. The fact is that I have not been thinking that at all, but this thought had occurred to me while I was questioned by the FBI.

Q. Oh, so this is something you thought at the time you were being questioned and not at the time you were with Thiel, is that right?—A. Yes, sir.

Q. Now that is not what you said in your statement, though, is it? Read your statement. Don't you say there, "At this
632 time I thought that he might have gotten the money from the German government, but I rejected this thought," and so forth? Didn't you tell the FBI that that is what you were thinking at the time Thiel gave you the money belt?—A. I have never been able to recall the thoughts which I had when I saw Thiel first.

Q. That is not my question, sir. My question is, did not you tell the FBI that that was your thought?—A. Well, I have told them that. It is put down here: yes, sir.

Q. Now you are saying that what you told them is not so, isn't that what it comes down to?—A. Well, yes; it does.

Q. This is the second point where we have had something in this statement which you say was not so at the time you made the statement.

Mr. MEDINA. What is it he says was not so? I do not quite get that.

Mr. CORREA. I say this is the second point at which he says that something in the statement was not so at the time he made the statement. The other was about the money belt.

Mr. MEDINA. I did not mean to interrupt, but I did not under-

stand what it is he is saying was not so, but maybe it is clear to everybody else.

633 Mr. CORREA. I will withdraw that question and put it another way.

Q. You have just told us, haven't you, that what you said in this statement is not the fact on this point?—A. The fact is, what I want to imply is, that at the questioning they were demanding—not demanding—but they were asking and searching for reasons, and since I did not know the consequences of my statement I said something to this nature which they wrote down.

Q. Yes; but what you said and what they wrote down you are now telling us is not the fact, isn't that so?—A. That is correct, sir.

Q. And this is the second thing in the statement which you tell us is not the fact, isn't it; the other was about the money belt.—

A. That is correct; yes, sir.

Q. Now, sir, when you said to your counsel this morning, just a little while ago, that everything in this statement was the truth, you did not mean that, did you?—A. Well, I was not aware of the consequences of what I have said then.

Q. How many other things have you said, sir, of which you were not aware of the consequences in your testimony?—A. I do not know.

Q. We will try to find out, sir. Now you have told the FBI in this same statement; and I refer to the last page of the state-
634 ment; you told the FBI that if you had thought that Thiel was here for a more sinister purpose involving violence and destruction, you would have tried to persuade him not to do it; and if you did not succeed in persuading him, you would have reported him, isn't that so?—A. I said that.

Q. And was that statement the truth at the time you made it?—A. It was part of the truth.

Q. What do you mean by that?—A. May I explain, Your Honor?

The COURT. Yes. He asked you to explain it.

A. (Continuing.) At the time when I became apprehended I was not completely aware of the nature of Thiel and made all kinds of statements which I partly felt were correct and which I partly was under the duress—not under the duress, but under the obligation to make. They demanded statements from me, and I said things which later on I knew were not as I had said then, and one of them is that I would consult Thiel about it. The fact remains if I had known of his purposes I would have immediately reported Thiel. I have always liked to help a friend but never to the extent of breaking a law. I would have dropped Thiel like a hot potato.

Q. What you are telling us, Mr. Cramer, is: I take it, that this statement about which you testified this morning that every-
635 thing in it was true, is in many respects not true at all. Is that what you are telling us?—A. I was mistaken about that; yes, sir.

Q. You were mistaken when you told your counsel that this statement was true in every respect, sir.—A. Yes, sir; I was.

Q. Didn't you understand his question?—A. Well, I have not quite understood it. I have not fully understood the meaning of that.

Q. As I recall his question, it was very simple, "Is everything in this statement true?" You say you do not understand that question?—A. No; I have not been aware of the full meaning of that statement.

Q. Do you mean that you were not aware that you were going to be called upon to explain any inconsistencies between this statement and your testimony here on the stand?—A. There are certain things which were not in my head and which I did not know, and which later on after questioning now I know are not so are only partly true.

Q. You looked over this statement, as I recall, at some little length before you gave that testimony concerning it, didn't you? A. Yes, sir.

Q. And you still say that when your counsel asked you this morning, is the statement true, you did not understand that question?—A. I did understand, but I did not think of the consequences of the meaning of the language.

636 Q. As I say, you did not think you were going to be asked to explain the inconsistencies between what you told the FBI on this occasion and what you told this Court and jury here yesterday. Is that what you did not think about?—A. That is correct.

Q. Now, sir, you say in your statement here—and I refer you again to the same place where we were, on page 5—do you see that paragraph that we read the first sentence of? I will read it to you again: "At this time I thought that he might have gotten the money from the German government, but I rejected this thought," etc. Do you recall that?—A. Yes, sir; I do.

Q. Now you say in that statement there that the thought then occurred to you, after you rejected the thought that he had gotten the money from the German government because he was not a violent man, the thought then occurred to you that he might have gotten the money from Dr. Viehaus in Vienna, who left the United States in 1932 and who was a physicist and chemist?—A. Yes, sir.

Q. Or he might have gotten the money from some other prominent person?—A. Yes, sir.

Q. Is that right?—A. That is correct.

Q. Now let me ask you about that statement: Do you stand by that now, or do you tell us that that one is something else?—A.

I have said that.

637 Q. You said it. Now is it a fact?—A. That is a fact.

Q. Those thoughts did occur to you at the time you were receiving this money from Thiel, is that right?—A. As I said before, I was not quite aware what thoughts occurred to me at the time. I have simply stated them when I was asked for thoughts in order not to appear to be empty-minded. I was not aware of the consequences of my statements. I had, as I mentioned before, put all doubts aside before because Thiel told me he would tell me his whole story as soon as Norma Kopp came down to the city and he would tell the story over a glass of wine.

Q. I do not think you are answering a question of mine. My question simply was this—and I think you can answer that, if you are able to, yes or no—either it is a fact or it is not a fact.—A. I have made that statement; yes, sir.

Q. You made the statement. Now the statement purports to set forth what you thought about it at the time you received the money belt from Thiel, and I want to know is that what you thought about it? Isn't it?—A. No. Those are the thoughts I have had with the FBI at the time I was questioned.

Q. In other words, to the extent that the statement pur-
638 ports to set out what your thought was at the time you were with Thiel, it is just false, isn't it?—A. According to my statement, it is.

Q. According to your statement now?—A. Yes, sir.

Q. All right. I will accept that amendment. Now, sir, you knew it was false at the time you signed it, didn't you?—A. I was in doubt what kind of thoughts I had had then. I did not know exactly if they were false, so I simply took these statements as the thoughts I might have had.

Q. That is not what the statement says. It does not say "the thought that might have occurred to me." It says, "they are the thoughts that occurred to me; maybe he had gotten the money from Dr. Viehaus," and so forth. That was false, wasn't it, according to the present testimony?—A. It was an erroneous—

Q. It is not the fact. Let us put it that way.—A. I was confused about it then.

639 Q. And you signed it knowing it was not the fact, didn't you?—A. I signed it; yes, sir, because I did not know what it implied.

Q. Didn't you know what was stated in it in black and white is not the fact?—A. The fact is that I have read it over once, and

that one of the special agents told me to read over a couple of times carefully, which I did not do because I attach no meaning to that at all. I did not know the consequences of the whole thing.

Q. I do not want to argue with you, Mr. Witness, but you understood, didn't you, that in this statement you purported to set forth facts?—A. Well, things which I was asked I tried to answer as good as I could.

Q. Didn't you understand the statement in this statement you were setting forth facts, things which had actually happened? Didn't you understand that?—A. I did understand that; yes.

Q. You did understand that. And didn't you know when you read it that certain of the things which you set forth in this statement of yours as being facts were not fact?—A. Well, the opinion of mine was then that whatever I said was of no consequence, because I had no idea of the thing I was involved in.

Q. So it did not matter whether you told the truth or
640 not; is that what you are trying to tell us?—A. Not that, but certain statements I would not have made if I had known what I was involved in or what they accused me of.

Q. Are you telling us you felt the statement was of no consequence and it did not matter whether you told the truth in it or not?—A. I say I always endeavor to tell the truth, but you can tell certain things in a manner where they are accusing and indicting.

Q. Isn't it a fact, while on the statement, first that the statement was dictated in your presence by Agent Willis over here?—A. Yes, sir; it was.

Q. With you making frequent corrections and amendments as he dictated it to the stenographer?—A. Frequent? No. There was only one or two words or a couple of words which I objected to.

Q. Isn't it a fact too, sir, that after the statement was typed in the form in which you have it before you, Agent Willis read it to you aloud in full?—A. Yes, sir.

Q. Isn't it a fact that then you read it over to yourself?—A. I did so; yes, sir.

Q. Isn't it a fact that then you and Willis together read it over?—A. I do not recall that.

Q. Do you deny that is so?—A. I would deny it, because I do not know it.

Q. Isn't it a fact that in all you heard this statement
641 read and had it read to you and read it yourself four times before you signed it?—A. I do recall to having read it myself and with Mr. Willis; yes, sir.

Q. Weren't you told at that time that it was important that you read it over and that it be read to you?—A. No.

Q. So that you might be certain that nothing was set forth in the statement that was not the fact?—A. The thought that it was important was never conveyed to me.

Q. Weren't you told that it was important that the statement set forth the facts, sir, and only the facts of your knowledge? Wasn't that told to you?—A. I think it was.

Q. And as a matter of fact didn't you state at the end of your statement, "I have read the above statement consisting of six and one-half pages, and I have signed the bottom of each page to indicate that it is true to the best of my knowledge and belief"? Didn't you do that, sir?—A. Page 6?

Q. The last page, right above your signature.—A. Yes; I have signed that.

Q. Now, sir, did you seriously think that Thiel had gotten this money from Dr. Viehaus in Vienna at that time?—A. I did not think anything serious about the money then, because I had no clue at all.

Q. But did you at any time seriously entertain even the thought he had gotten it from Dr. Viehaus in Vienna?—A. It was more of a speculative than of a serious nature.

Q. You knew, did you not, that no private citizen in Germany could have \$3,500 in American money?—A. I did not know that; no.

Q. Did you think it likely a private citizen in Germany would have that amount in American currency?—A. It might not be likely, but it would be possible.

Q. It would be what?—A. I say it could be possible. It might not be likely.

Q. You knew it was unlikely?—A. Well, yes.

Q. Highly unlikely?—A. Highly! I would not say that.

Q. Did you think that if Thiel got the money from Dr. Viehaus, Dr. Viehaus was also the one who sent him over on a submarine?—A. That thought has not occurred to me.

Q. You did not think of that when you put down on the statement the part you have just read on page 5 there, concerning Thiel getting the money from Dr. Viehaus?—A. Will you please repeat your last question?

Q. I say that thought did not occur to you when you put down in the statement there that Thiel might have gotten the money from Dr. Viehaus or Mr. Viehaus?—

A. Well, that thought has come to my mind, but I have not taken it as a probability.

Q. Isn't it the fact, sir, that you knew and knew all along that Thiel's money came from the German government?—A. No, sir; it is not.

Q. And nowhere else? Isn't it a fact that as you were giving this statement, as you have it before you, to the FBI, it occurred to you that perhaps you had admitted too much?—A. No, sir; it has never occurred to me.

Q. Didn't it occur to you, sir, that when you got to this stage in the statement, the very page, page 5 there—didn't it then occur to you that perhaps you had admitted too much by admitting that you suspected Thiel had the money from the German government, and so you brought in these other statements about Thiel getting the money from Dr. Viehhaus and other prominent persons, to cover up the admission you made and modify it?—A. No, sir; it is not.

Q. That is not your reason for doing it, you say?—A. That is correct.

Mr. CORREA. I am at a good place to pause for the recess. Your Honor.

643-A * The COURT. We have to take a recess in this case to a quarter to 3. I have two other hearings in reorganizations set down and advertised a couple of weeks ago, and I cannot adjourn them. We will recess to a quarter to three.

(Recess to 2:45 p. m.)

644

AFTERNOON SESSION

2:45 p. m.

ANTHONY CRAMER resumed the stand.

Cross-examination continued by Mr. CORREA:

Q. Now, Mr. Witness, you were here when Mr. Willis testified, sir?—A. Yes, sir.

Q. And did you hear Mr. Willis testify on cross-examination by your counsel that when he opened your safe-deposit box there was in it 61 \$50 bills in an envelope in the center of the box, and five \$50 bills in one corner of the box and four \$50 bills in another corner of the box. Do you recall that?—A. Yes; I do recall his words.

Q. Do you recall counsel stated what he wanted to bring out was that there was a place in the box where there was a separate pile of \$200?—A. Yes, sir.

Q. I think that was just about the way the question was put. What I want to bring out is that there was a separate pile of \$200.—A. Yes, sir.

Q. Have you made a statement at any time that the separate pile of \$200 represented money which Thiel had repaid to you?—A. I think I did, but always made the provision that I was not quite sure about the money; how I put it.

Q. That again is not what you told the FBI, is it?—A. I do recall very little of that.

Q. You mean you do not recall whether that is what
645 you told the FBI, or not?—A. That is correct; yes, sir.

Q. Let me show you your statement which has been marked as your "Exhibit C" in evidence, and I particularly direct your attention to page 6, and the first full paragraph on that page. You might read that through and see if that refreshes your recollection as to what you told the FBI on that subject [handling exhibit]. Does that refresh your recollection, sir?—A. No; it does not.

Q. You mean to say this statement does not refresh your recollection as to what you told the FBI?—A. How I put the money and in what condition it was when I left it in there, I do not recall at all today any more.

Q. My question is, does the statement refresh your recollection as to what you told the FBI?—A. It does not; no, sir.

Q. Are you sure you understand my question?—A. I do, sir.

Q. In other words, even after having read your statement, you still do not know what you told the FBI, is that it?—A. Ever since I have made this statement to the FBI I paid no more attention to it, because I have not thought about it any more.

Q. So what you are telling us now is that you do not know whether this statement is what you told the FBI or not?—

A. No. You must be misunderstanding me.

646 Q. I guess I am.—A. Pardon me. That at the present moment I do not recall my statement to the FBI.

Q. But does not this statement—and when I say "statement" I refer to the typewritten statement before you—does not that set forth what you told the FBI?—A. Well, I must have told the FBI, but I do not recall it now.

Q. Isn't it the fact, sir, that you told the FBI that all the money in the safe-deposit box except \$100 was Thiel's?—A. According to this statement; yes.

Q. Do you know that you told the FBI that?—A. I will not deny that; no.

Q. You signed your name on that page, didn't you, sir?—A. I did; yes, sir.

Q. In fact you made a change in a paragraph right above the one I am reading from, is that correct?—A. That is correct.

Q. With your own initials?—A. Yes, sir.

Q. And was that statement the fact at the time you made it?—
A. I cannot tell you yes or no, because I do not know it now any more.

Q. So you do not know now whether what you stated to the FBI was the fact or not? Is that what you are telling us?—A. I

have told Mr. Willis at the very first beginning that I have been very confused about the money and that it might be so or
647 might not be so, as to the position I put the money in.

Q. Well, sir, let me ask you while we are on the subject, what is the significance of the \$450, that is one pile of five \$50 bills and another pile of four \$50 bills, which was left out of the envelope?

Mr. MEDINA. I object to the form of that question, Your Honor.

The COURT. I think that is a proper question.

Mr. MEDINA. I do not see how he can tell the significance. Evidently, what I was thinking, how he could know that I do not know.

The COURT. He is the one who put the money into the box.

Mr. MEDINA. Yes. I did not think the question was addressed to that, Your Honor, but perhaps I am wrong.

Mr. CORREA. I will withdraw it. I thought I made the point clear, but I will try to make it more clear.

648 Q. Let me ask you it this way, Mr. Cramer: What did you have in mind when you put 61 of the \$50 bills into the envelope and left 9 of them out of the envelope?—A. Well, I believe that is stated in my memorandum.

Q. Now you just tell us, if you will, what you had in mind.—A. I found eight gold notes, and I left them, as much as I do recall, out of the envelope. That is all I do recall about it.

Q. Well that leaves us another bill of \$50 which was also left out of the envelope.—A. Well, I don't know that.

Q. What did you have in mind when you did it that way?—A. Well, to have them separated, as much as I do recall, because they were gold notes.

Q. Yes; but your counsel brought out, I think, from you yesterday, certainly from Mr. Willis—I am sure from you—some of the gold notes were in the envelope among the 61 and some were out of it.—A. I do not know that.

Q. I think that was brought out yesterday on your examination. We will see if we can find the place. I am sure that was brought out.—A. All I do recall is that I separated the gold notes.

Q. As I understand it, sir, some of the nine bills left out
649 of the envelope, some were gold notes and some were not.

A. Are you positive about that, Mr. District Attorney?

Q. That was Mr. Willis's testimony, I am pretty sure, and I think it was brought to your attention yesterday by Mr. Medina.—

A. I heard him say that; yes, sir.

Q. And I think you answered a series of questions about it. Now I am checking the minutes to find the specific place. Yes, at page 561 of the minutes you were asked—well, I will start at

page 560, because I think that makes the point clearer. You were asked this: "Q. Can you say this, that you put most of the money in the brown envelope?—A. Yes, sir; I did." Do you remember that question and answer?—A. Yes, sir.

Q. Then the next question:

"Q. That left a certain number of bills that you did not put in the brown envelope, Defendant's Exhibit G?"

And you answered, "Yes, sir." Correct?—A. Yes.

Q. Then the next question: "Q. And I ask you if you have any recollection of how you arranged them; these other remaining bills in that box?" And you answered, "A. As I do recollect, I had three \$50 bills piled in a corner and four or five gold notes piled in the other corner, and the rest of the money was in 650 the envelope. That is my recollection."—A. Yes, sir.

Q. Is that your recollection?—A. As I can see, yes.

Q. Then the next question: "Q. Well, I don't want to seem to be stupid about it, but I do not quite understand why, where there were eight gold notes, you should put four or five of them in one pile and the other three or four inside the envelope. Was there some reason for that?" And your answer was: "No; but my recollection is very vague about this subject. I am not positive about it."—A. Well, that is correct; yes, sir.

Q. Now, sir, what I am getting at is this: What was your purpose in leaving any of the bills out of the envelope?—A. Well, the purpose for that, as I can recall it, was that some of it was mine and the rest was Thiel's money, and that I wanted to keep the gold notes separated; and how it has been done, I do not recall that any more. That is all I can state on that. I do not recall anything more, and I can say with honesty and sincerity that there was no other purpose attached to that.

Q. Was any part of that money or all of it that you left out money that was going to be paid to you for something that 651 you were doing or going to do for these men?—A. Nothing at all; no, sir.

Q. You left out \$450, did you not?—A. I don't know that. I must have left it out.

Q. And you have no other explanation than the one you have given; is that right?—A. That is all I know about it; yes, sir.

Q. Now there has been introduced in evidence here, Mr. Witness, a letter that you wrote to Thiel under date of November 25, if my recollection serves me, of 1941. Is that right?—A. I think it is.

Q. You remember that letter, don't you? I think it is Exhibit—I refer to Exhibit 68 in evidence [handing to witness] which you note is dated November 25, 1941. Am I right, sir?—A. Yes, sir.

Q. Now isn't it the fact, sir, that you wrote other letters to Thiel other than the one you hold in your hand at the moment?—A. Yes, sir; I did.

Q. As a matter of fact you refer in that letter, do you not, to having written him, I think you say twice before?—A. Yes, sir.

Q. And isn't it the fact, sir, that the other letters that you wrote to Thiel were also critical of the United States?—A. Not critical of the United States, but I had been critical about certain persons.

652 Q. Didn't you write letters which were unfriendly in tone to the United States, to Thiel, prior to the one of November 25th?—A. Never unfriendly to the United States. To certain persons, I repeat that.

Q. Well, sir, is it not the fact that irrespective of what you wrote to Thiel, that during 1941 you did write several letters to Germany in which you discussed the United States in an unfriendly manner?—A. I do not know that.

Q. Well, what is your recollection? I want you to search it on that subject.—A. The letters I have written to Thiel were more or less of a purely personal matter and politics was little discussed in it.

Q. You say you discussed politics very little in your letters to Thiel?—A. Yes, as I do recollect.

Q. A considerable part of this letter is taken up with a discussion of politics, isn't it?—A. I do not remember the contents of the letter.

Q. Take a look at it and see if it refreshes your recollection.—A. Well, this is the letter where I had discussed politics I believe more than usual.

Q. This is more than usual; is that right?—A. That is correct.

Q. Now, sir, isn't it the fact that you did write to Germany in the year 1941 several letters in which you discussed the
653 United States in an unfriendly manner?—A. I do not know unfriendly. I would say that I have criticized a few persons. I have never criticized the United States as such.

Q. Now, sir, during the year 1941, didn't you receive letters from your nephew Norbert?—A. Yes, sir.

Q. Now isn't it the fact, sir, that Norbert's father—that was your brother, wasn't it?—A. That is right.

Q. Through Norbert warned you that your letters discussed the United States in such an unfriendly fashion that Norbert's father feared that you would be put on the blacklist, because according to him the letters went through an American censorship?

Mr. MEDINA. I object to that question as improper and that the very wording of the question is such that I move for a mistrial.

The Court. Motion denied.

Mr. MEDINA. What is your Honor's ruling?

The COURT. The motion is denied.

Mr. MEDINA. Exception. What is your Honor's ruling on my objection?

The COURT. Overruled.

Mr. MEDINA. Exception. These are letters from someone else, and I claim they are not binding upon the defendant. Your Honor realizes that, I take it.

654 By Mr. CORREA:

Q. Do you have the question?—A. Yes, sir. If there was any purpose behind it, I have been trying to show that we still have freedom of the press and thought in the United States.

Mr. CORREA. I move to strike the answer, and ask that the question be read and the witness be directed to answer it responsively.

The COURT (to witness). Can't you answer that directly? Answer that question directly.

The WITNESS. Whether it was hostile or whether it was friendly or—

Mr. MEDINA. No; the question is whether you got letters which said that.

The WITNESS. Well, I have received a letter from my nephew Norbert which mentions that, I admit that.

Mr. MEDINA. I move to strike out the answer upon the grounds on which I objected to the question.

The COURT. The motion is denied.

Mr. MEDINA. Exception.

655 Q. And does that refresh your recollection as to whether or not you had written letters to Germany during the year 1941 in which you discussed the United States in an unfriendly manner?—A. I repeat, that persons is the reference.

Q. Well, what was contained in those letters to Norbert's father, which he considered, according to your testimony, was so unfriendly as to be likely to involve you in trouble with the American censorship?

Mr. MEDINA. I object to the question as improper in form, containing erroneous assumptions of fact and as generally inadmissible and improper.

The COURT. Read the question.

(Question read.)

The COURT. I sustain the objection.

Q. How many letters did you write during the year 1941 to Norbert's father?—A. I do not recall that; at most one.

Q. At most one? It could not be any less than one, could it.

sir?—A. I usually write a letter to my folks at home once or twice a year.

Q. So at least one is what you mean, isn't it?—A. Maybe at least; yes, sir.

Q. And at most how many?—A. Well, not more than two.

Q. Not more than two? Now tell us what was in those letters by way of discussion of the United States?—A. I
656 do not recall anything about it in such a manner that I can give you an account of it.

Q. Can you recall anything you said in those letters about the United States?—A. Letters I have written home have always been full of praise for the United States, for the Constitution of the United States, and if I have been critical it was only about certain persons, and my nephew has believed that, or my brothers; rather, have believed them hostile because if you criticize a man in Germany it is a crime, and I want to show them that it is not in the United States.

Mr. CORREA. I move to strike it out, if your Honor please, and ask that the question be read to the witness and that he be directed to answer. And I may say that my question related to the specific letters he mentioned during the year 1941.

Mr. MEDINA. I would ask your Honor to consider those three separate motions of Mr. Correa severally. The first is to strike out the answer. What is your Honor's ruling as to that?

Mr. CORREA. Your Honor, lest we waste time, the motions are withdrawn and I will rephrase the question and try to get an answer.

Mr. MEDINA. I object to the comment "try to get an answer," as though perhaps the witness was reluctant,
657 which there is no evidence of.

Q. Now, Mr. Witness, what was in the specific letter or letters which you wrote to your brother and his family in the year 1941?—A. I am unable to tell you. I do not recall.

Q. And you cannot recall anything that was in those letters?—A. No, sir.

Q. Any discussion of the United States that was in those letters?—A. I do not know; no.

Q. Isn't it a fact, sir, that your letters to Thiel were in the same vein as your letters to your brother?—A. No, sir.

Q. Now, sir, is it not the fact that you were under the impression that your letters went through an American censorship?—A. No, sir.

Q. I will ask you when you state in your letter to Werner Thiel, I think it is Exhibit 68 before you—A. 68 is correct; yes, sir.

Q. That this letter is going through enemy censorship twice, so you will have to be circumspect in your discussion of the political situation over here—isn't that the substance of what you say?—A. Yes, sir.

Q. What did you mean, that the letter would go through enemy censorship twice?—A. England and Germany.

Q. You mean that you considered both England and Germany as enemy censorship?—A. Yes, sir.

Q. You did not consider Germany an enemy; did you, in your thinking at this time?—A. Well, they are read and censored in Germany, and since I am a citizen of the United States I am considered more or less an enemy to Germany.

Q. Did you consider yourself an enemy of Germany?—A. To be frank, no; not at that time.

Q. You did not at this time, did you?—A. At that time.

Q. And you say nevertheless you felt that German censorship was enemy censorship?—A. That is correct.

Q. And you felt that Thiel, to whom you were writing, would understand that that way, is that correct?—A. I did not know if he would understand that, but that was my intention.

Q. Well, you were writing to tell Thiel, were you not, and you wanted him to understand what you wrote, didn't you?—A. Yes, sir.

Q. And you told Thiel, now this letter goes through enemy censorship twice and therefore I have got to be careful, or however you phrased it?—A. That is correct.

Q. And you felt that Thiel would understand, when you said "twice" you meant once the English censorship and once German censorship. —A. I did not know if Thiel was to understand that, but that is the way I put it.

Q. And you felt he would understand that, or you would not have put it that way?—A. Well, of course.

Q. And you felt that you had to temper your discussions—A. Pardon me.

Q. You felt you had to be careful in your discussion of American politics because if you were to be outspoken the German censors might not like it?—A. Either the German or the English censorship, correct.

Q. Stay with the German. You thought the German censorship might not like it, didn't you?—A. That is correct.

Q. Let us see what you did say: Didn't you say there, as a matter of fact "You will understand that I can toss you only small crumbs from this fodder field since this letter will probably go twice through enemy censorship."—A. Yes, sir.

Q. And when you were referring to "small crims from his fodder field" you meant, did you not, political developments over here?—A. Political developments?

Q. In this country.—A. Well, I do not know the true meaning of what I just meant then—politics in general.

Q. Well, sir, if you do not know, I am sure I do not know. Cannot you indicate to us what you meant by that
660 expression in the letter there?—A. That is more than a year passed, and I do not recall what I meant by that.

Q. Well, the writing is before you. Look at it. Maybe if you look at it in the German—it may not be well translated. Look at it in the German and see if that helps your recollection [handing].—A. (No answer.)

Q. Does that help your recollection, sir?—A. Very little.

Q. Now, sir, was it your thought that if you criticized political and national figures over here that the German censor would not like that?—A. No, the English censor.

Q. What was it in your letter that you thought the German censor would not like?—A. Well, the letter in general.

Q. That letter in general?—A. I have known instances that people wrote letters from this country and they were not permitted into Germany—that did not reach their address.

Q. And what you thought the German censor would not like was that letter you have before you in general, is that your answer?—A. Well, yes, sir.

Q. Now when you were naturalized, I think it was brought out on direct, you solemnly renounced any and all allegiance to the German Reich, did you not?—A. Yes, sir.

661 Q. And you just as solemnly swore complete and undivided allegiance to this country, didn't you?—A. Yes, sir.

Q. Now you knew in 1941, didn't you, that as a citizen you owed this country complete and undivided allegiance?—A. Yes, I knew that.

Q. And you knew that at all times since your naturalization?—A. Yes, sir.

Q. And you knew that you had renounced any and all allegiance that you had already owed to Germany?—A. Yes.

Q. Isn't it a fact, sir, that nevertheless your state of mind, so far as Germany was concerned, in December of 1941, and I refer to December 3rd, was that it was your duty to be over there fighting for Germany?—A. No, sir.

Q. Isn't it a fact, sir, that you felt unhappy and discontent because you were not in the fight on the side of Germany at that time?—A. No. I was glad about to be in the United States.

Q. Now didn't you feel that on November 25, 1941, that you were sitting over here "in pitiable comfort" when you should be in the battle on the side of Germany?—A. No, sir; I have never thought of that.

Q. Now, sir; didn't you say as much in your letter to Werner Thiel? I will read from the translation which is Exhibit 662. 68—A in evidence. "Didn't you say: 'Inside I am very discontent as a result of the disturbed times. We sit here in pitiable comfort when we should be in the battle. As Nietzsche says, 'I want the man; I want the woman; the one fit for war, and the other fit for bearing.'"—A. That was a time when I just had read Nietzsche and I was more or less under the influence for a few moments, but I have never really felt that influence. I have been a pacifist all my life.

Q. A pacifist?—A. Yes, sir.

Q. So although you said that, you did not mean it?—A. That was more or less a crumb of encouragement for my friend.

Q. As a matter of fact isn't that quotation from Nietzsche which you set forth in that letter there one of the principles of the Nazi party?—A. I did not know that.

Q. You did not know that, sir?—A. No. I do not know the principles of the Nazi party.

Q. So you are unable to tell us whether that is one of the principles of the Nazi party?—A. I am unable to tell you that; yes, sir.

Q. Isn't it a fact, sir, that Nietzsche is one of the philosophers whom the Nazis hold up in admiration and esteem?—A. I know Nietzsche only as a philosopher. I do not know the relation of the National Socialists to Nietzsche.

Q. And you do not know anything about that either?—A. No, sir.

Q. Now, sir, you say when you wrote the letter to Thiel which is dated November 25, you were under the influence of Nietzsche, is that correct?—A. At the moment I may have been; yes.

Q. Isn't it a fact, though, that you still felt the same way when you wrote the letter dated December 3rd which is addressed "Family Heinrich Cramer"?—A. May I have a German translation of that letter?

Q. You may have the original of it, sir, which I take it is what you mean, isn't it [handing]. You take the original and I will take the translation, if I may. Now look at that Exhibit 69. I direct your attention to, I think it is, about the second paragraph from the end, the second paragraph above the signature, or maybe the third. It starts "Personally I am still well and spending my days really much too pleasantly." Do you see the paragraph?—A. Yes, sir.

664 Q. I say isn't it a fact that on December 3, which is the date of this letter, it was still your feeling that you should be in there fighting on the side of Germany?—A. It does not say so in here.

Q. Sir, doesn't it say—and I am reading from the translation Exhibit 69-A, and I want you to correct me if it is inaccurate—it reads as follows in the translation: "Personally I am still well and spending my days really much too pleasantly in view of the gigantic sacrifices which the glorious, disciplined Germany army is making from day to day for the homeland"?—A. Yes, sir.

Q. Do you disagree with that translation, sir?—A. Well in substance it is correct.

Q. Now I say didn't you feel on December 3 of 1941 as you had felt on November 25; namely, that you should be over there fighting for Germany?—A. I do not see where my person comes into this.

Q. The translation I have, sir, starts "Personally I am still well and spending my days really much too pleasantly."—A. That is incorrectly translated.

Q. How should it be correctly translated?—A. That I spend my days pleasantly.

Q. Excuse me, I just want to get a note of what you say.—A. That I spend my days pleasantly.

Q. Yes?—A. And I have not mentioned my person, 665 that I have—

Q. No, please give us a translation of it first, sir, and then add your comments, so we can check the translation.—A. "And in view of the great sacrifices which are brought by the Germany army"—oh, I am—"in view of the great sacrifices that are being brought by the German army, compared to that I live in rather pleasant circumstances."

Q. Now as I understand it your translation reads as follows, and correct me if this is a mistake: "I spend my days pleasantly. In view of the great sacrifices which are being brought by the Germany army, compared to that I live in rather pleasant circumstances"?—A. That is correct; yes, sir.

Q. And that according to your testimony is a correct translation of that part of the letter; is that correct, sir?—A. Yes, sir.

Q. Now does it say anything in there about the "glorious disciplined German army" as the translation I have does, or is that too in error?—A. It could be translated like that; yes, sir.

Q. I do not want you to concede anything as to the translation, sir. Just tell me how you translate it? I just want to know what you say.—A. Well, "the grand and very obeying" I would say.

666 Q. "Grand and obeying army." I think we will take

that as "disciplined."—A. Yes; it may be taken like that.

Q. Does it say anything about the "gigantic sacrifices which the grand and well-disciplined German army is making from day to day for the homeland?" does that phrase appear in there, "from day to day for the homeland," or anything like that?—A. Yes, sir.

Q. You heard this letter read in court when it was introduced, didn't you?—A. Yes, sir.

Q. Have you made any effort to call attention to these inaccuracies, as you state them, heretofore? This particular one I refer to.—A. Previously you mean, sir?

Q. Yes, previously.—A. Well, these letters, I admit they have been read to me and I said in substance they were translated correctly; but still you can translate words in such a manner that their meaning is different.

Q. Now, sir; is it the fact that you felt at this time that you wanted a chance to do something for Germany?—A. No, sir.

Q. You did not feel so?—A. No, sir.

Q. And that is true of your state of mind at the time you wrote the Heinrich Cramer letter as well as your state of mind at the time you wrote the Henry Thiel letters; is that correct?—A. Yes, sir.

667 Q. Did your feeling toward Germany and the German army change when the United States declared war on Germany?—A. Yes, sir; I did.

Q. And did you feel thereafter the same way about the United States army as you indicated in this letter you felt about the German army?—A. Will you please repeat that last statement?

Q. I say did you feel after the United States and Germany were at war?—A. Yes, sir.

Q. The same way, that is, did you feel the same way about the United States army as you had felt about the German army before the war?—A. Yes, sir; I have.

Q. You feel the same way about the United States army now?—A. I do; yes, sir.

Q. Isn't it the fact, sir, that on the contrary your feeling about the United States army was just the opposite from your feeling about the German army?—A. I have never said anything, and never had felt anything to that sentiment.

Q. Didn't you feel in April, 1942, that the United States army was misusing men who were drafted as world conquerors, as you put it?—A. That is not—I have mentioned that, but that was—that was not meant in the way you mean it.

Q. Sir, I am not attempting to give it any meaning;
668 I am quoting. It is a translation of your letter.

Mr. CORREA. I ask the remark of Counsel be stricken, judge, because I think it is not correct.

Mr. MEDINA. The quotation does not accord with my copy of the letter.

The WITNESS. It does not say I am——

Mr. CORREA. I have no copy different from the exhibit in evidence. It accords with that.

The WITNESS. I never used the expression you said. "Used" and you said "misused."

Q. "Misusing" I said.—A. But in German it said "used" and that is a misspelling.

Q. That is another mistranslation?—A. Yes, it is.

Q. You have not called attention to that heretofore, either, have you?—A. No, sir.

Q. In any event you now say, sir, that you did not want them to be used by the United States army as a world conqueror?—A. That is correct; yes, sir.

Q. Perhaps the term "world conqueror" was another mistranslation?—A. No, I said that, "world conqueror."

Q. Now I ask you, sir, as to that sentence of this Exhibit 63—Exhibit 63 being your original letter—again to give us what you state is the correct translation, as you seem to quarrel with our translation of it.

669 Mr. MEDINA. For the sake of clarity, your Honor, would it not be well to read first what is in the translation, so the jury can see if there is any difference in his translation?

The COURT. I think Mr. Correa can examine the witness on that.

Mr. MEDINA. Very well.

A. Well, I will say that in German it has an altogether different meaning.

Q. Give us the meaning, sir, as best you can, on that sentence; and give it to me slowly, please, as I want to write it down.—

A. Well, "storming over the world" would be better in this particular meaning, in this particular——

Q. I would like a translation, sir, if you would of the sentence you see, in which those words "world conqueror" appear.—A.

Well, it would be like this: "It is not impossible that we"—including Hubert Thielmann and myself—might become soldiers"—

Q. "It is not impossible that we"—A. We, Hubert Thielmann and I.

Q. You do not say in the letter Hubert Thielmann and you?—A. No.

Mr. MEDINA. It is addressed to Thielmann.

The WITNESS. Yes. "It is not impossible that we may become

670 soliders yet and that we may be used by the American army, as"—

Q. You are going a little fast for me. "and that we may be used by the American army"—A. "To storm into other continents" or "to other continents."

Q. "To storm"?—A. "To other continents."

Q. "To storm into"—A. Yes, "to storm" or "storm to other continents."

Q. And that you say is a correct translation?—A. That would be about correct.

Q. Of that phrase of your letter; is that right, sir?—A. Yes, sir.

Mr. CORREA. If I may have a few moments, your Honor. This is a surprise to me, that our translations of the documents were contested.

Mr. MEDINA. I do not contest it.

Mr. CORREA. The defendant does, your Honor.

Q. Now, sir, it was your state of mind, was it not, in November of 1941, that you did not want to dirty your fingers with war materials—or, excuse me, with war work?—A. Yes; I have said that.

Q. And isn't it the fact, sir; that in April and June of 1942 you still felt the same way towards the war?—A. No, sir; I felt different.

Q. Isn't it a fact that when you met Werner Thiel in June you saw an opportunity to help Germany?—A. No, sir.

671 Q. And against the United States?—A. I never had the thought.

Q. Now, sir, you say you didn't. You guessed the very first time you met Thiel that he was over here on a mission from the German government, didn't you?—A. I had a hunch; I did not guess it.

Q. We will adopt your language, you had a hunch. You suspected that he was here on a mission from the German government, didn't you?—A. All right; yes, sir.

Q. The very first time you met him in June?—A. That is correct.

Q. You said I believe that you did not think of reporting Thiel because you did not want to betray a friend.—A. Well, that was believing that Thiel had evaded the draft board, and that I believed as insignificant, but pertaining to Thiel as a man, as an enemy of our country, I would immediately have reported him. That is my sincere truth.

Q. That is another departure, isn't it, from your statement to the FBI?—A. Yes, sir.

Q. Isn't it?—A. Yes, sir; it is.

Q. Is that another case where what you told the FBI was not the truth at the time you told it to them?—A. At the time I made these statements—pardon me, sir, to interrupt you—at the
672 time I made these statements I believed Thiel to be an evader from the draft board and nothing else. I did not know anything about Thiel's activities, and that was my state of mind, knowing Thiel as an evader of the draft board but not as an enemy of our country.

Q. Didn't you say to the FBI on June 28th, "I know that it is wrong for a person to incite unrest among citizens by spreading stories and circulating rumors during war time, but if Thiel had come over to the United States to engage in such activity I would not think of reporting him because I would never betray a friend"—A. That was wrong.

Q. "If I did I could never respect myself."—A. That was wrong.

Q. My question is now did you say that to them, sir?—A. Yes, sir; I did.

Q. As a matter of fact you made a change in that very sentence, didn't you?—A. Where?

Q. The second word. It read "I knew" and you changed it to "know" and initialed it, didn't you?—A. That has been called to my attention. I did not know; I have not done that deliberately.

Q. You mean you did not make the change deliberately?—

A. That has been called to my attention, as much as I recall.
673 I believe on the suggestion of an FBI agent. I never have paid any attention to the correction of that statement. Where it should be "I know"—

Q. Which agent suggested that you make that change?—A. I don't know. Some of the agents.

Q. Can't you recall which one?—Was it Mr. Willis?—A. I cannot be positive whether it is Mr. Willis or someone else.

Q. Can't you describe or give us some indication of the man you say told you to make that change?—A. No, sir; I don't recall that, the person. "I knew it" has been suggested to me.

Q. Sir, in any event you saw that statement in there, didn't you?—A. Yes, sir.

Q. When you signed the writing?—A. Yes, sir.

Q. And you now say to us that although you made that statement to the FBI it was not true?—A. I am quite in doubt about your last sentence. Will you please repeat that?

Q. You now say, sir, that although you stated that language there, that sentence to the FBI, it was not true?

Mr. MEDINA. May it please the Court, may it be clear that what the question relates to is the hypothetical statement of what he

would have done if something. I think that is what is causing the trouble.

674 Mr. CORREA. If, your Honor please, there is a sentence there in his statement which he signed, and the particular sentence itself is initialled. I understood the witness to say although he gave that statement and signed it and initialled it, he does not mean it now. I want to know what the fact is, whether he gave a deliberate untruth to the FBI or what. I think I am entitled to know it too.

Mr. MEDINA. If your Honor please, I do not like to interrupt, and I do very little of it, but when you ask a person what he would have done if in the future, I do not see how anybody can speak of that as a fact. I really don't.

The COURT. It may indicate intention or state of mind, certainly.

Mr. MEDINA. It is a hypothetical state of mind.

The COURT. That may be.

Mr. MEDINA. If that is a fact I am learning something here today. I do not understand that, and I think it is a speculation.

The COURT. I suggest, so the jury may understand it, that you read that statement from the paragraph that you indicate.

By Mr. CORREA:

Q. The statement is—and I ask you to follow on
675 the original exhibit, please, Mr. Cramer—the statement reads: "I know that it is wrong for a person to incite unrest among citizens by spreading stories and circulating rumors during war time, but if Thiel had come over to the United States to engage in such activities I would not think of reporting him because I would never betray a friend. If I did I could never again respect myself."

A. As much as I do recall—pardon me, sir—this has been suggested to me by Mr. Willis, to add to that, and at the time I did sign this I was not aware of the consequences.

The COURT. Was that true?

The WITNESS. Pardon me?

The COURT. Was it the truth or not?

The WITNESS. It is not the truth. I would have reported him.

Mr. CORREA. The witness understands perfectly well, your Honor.

Mr. MEDINA. It remains an hypothesis and not a fact, your Honor.

Mr. CORREA. I think the witness understands it.

The WITNESS. May I ask you a question, Mr. District Attorney?

By Mr. CORDERA:

Q No, sir; you may not. I prefer that you answer my
676 questions and answer them as truthfully as you are able
to.—A. Yes; I do.

Q Now you say Mr. Willis suggested this language?—A. As
much as I do recall; yes, sir.

Q Did you tell Mr. Willis at the time "Well, that is not the
truth, I would report a friend of mine," as you just told us here?—
A. Well, I was in doubt about the state of mind. I would have
had if I had known, and so I simply thought that this was the
best way to express myself.

Q Did you indicate to Mr. Willis that you were in doubt about
this?—A. Well, I do not recall that.

Q Can you recall whether you indicated that or not, sir?—A.
The whole thing was done, I do know that, because I was igno-
rant of anything that had happened and what was to come of
it and these statements I made.

677 Q Now, sir; this statement was taken after your inter-
view with Mr. Ostholthoff, wasn't it?—A. Yes, sir.

Q And didn't you tell us just yesterday afternoon near ad-
journment time as follows concerning your interview with Mr.
Ostholthoff, and I quote from page 577 of the minutes:

"Mr. Ostholthoff told me 'Cramer, you don't seem to realize
in what a serious thing you have been involved.' Well, then it
dawned upon me that something might have been radically
wrong. 'Well, I said, 'if that is the case I am going to tell all
I know about it.'"—A. Yes, sir.

Q You realized at the time you made this statement, didn't
you, that there was something very wrong, as you put it?—A.
Yes; but not to the extent it has proven to be.

Q Is it your testimony, sir; that you only tell the truth when
you feel that the matter may involve you in some serious con-
sequences?—A. No, sir; but this whole thing is so conflicting
because—I have never been able to look behind it and see what
was going on.

Q Well, in any event, you say now that if you thought your
friend Thiel was over here for the German government to cir-
culate rumors, you would have reported it?—A. Yes; I would
today any time.

Q Contrary to what you say in this statement, right?—A.
Yes, sir.

678 Q Well, now, sir; you did have a hunch the moment you
saw Thiel that he was here on some mission for the Ger-
man government, didn't you?—A. No, sir; I did not.

Q Now you told me that five minutes ago, didn't you, sir?

Don't you remember?—A. That he was on a mission for the government?

Q. That was my understanding of it, sir.—A. No, sir; I have never said that.

Q. Didn't I use the word "guess" and you corrected it and said you had a hunch?—A. That he had come by submarine.

Mr. CORREA. I wonder if the stenographer could read that back.

Mr. MEDINA. My recollection is the same as Mr. Correa's. The question was, did he have a hunch he was here on a mission for the German government, and my recollection agrees with Mr. Correa's.

The COURT. I do not recall his mentioning the word "submarine."

Mr. MEDINA. I am willing to proceed upon the assumption the record would so read. Perhaps it was an inadvertence, I do not know, but I am willing to proceed on the assumption that is what he said.

The COURT. We do not want to proceed on the theory it was an inadvertence.

679 Mr. CORREA. I should not think so.

The COURT. You could hardly substitute "submarine" for a German mission.

Mr. MEDINA. I am merely trying to help, your Honor, instead of waiting to get the other stenographer to come back. I am saying my recollection is the same as Mr. Correa's. How can that be hurtful.

The COURT. We do not want to guess about it. We are sending for Mr. Friel. You need not hold up the trial.

Mr. CORREA. While we are waiting for that, if I might check a moment, I would like to check these translations. I think I can examine the witness on another line, on the second translation which is the one I have here.

Q. Now, sir, isn't it a fact, referring to Government's Exhibit 63 in evidence—you recall that is your letter to Hubert Thielmann, isn't it [handing], and it is in German, isn't it?—A. Yes, sir.

Q. Now I refer to the original exhibit, and is it not the fact that in the translation you gave, you omitted the entire first line of that paragraph, sir? "Ess ist"—A. Well, yes. I said "It is not impossible." Didn't I say that?

Q. Excuse me. You are quite right, but did not you
680 leave out the phrase which follows, starting the second line of the paragraph, and the phrase starts "Was ich"?—A. "Which I personally would not quite approve."

Q. "Or personally would not like." Isn't that true?—A. Well, it is the same.

Q. And you said "It is not impossible" in your translation, "that we may be 'used'" and you took issue with our translation which you said the word "misused." Does not the word appear here at the third line of the second paragraph? Does not it there appear as the word "missbraucht"?—A. Yes; it does.

Q. And doesn't that mean "misused"?—A. Well, it could be translated both.

Q. How else could it be translated?—A. There are slight differences in German.

Q. Well, just tell me how else it could be translated from there any other way in that context?—A. Well, we could say—well, isn't there a difference between "abuse" and "misuse"?

Q. The word was translated "misused" in the translation the Government put in evidence, and that is what you took issue with.—A. Yes; but that would in English be the equivalent of a slightly lesser degree than "abuse."

Q. How would you translate the word other than "misuse"?

You quarrel with our translation.—A. Well, I don't know
681 at the present time a better word for that than "abuse".

Q. "Abused" or "misused"?—A. There is a slight difference in German in those words.

Q. Now, sir, the other point on which you took issue with our translation was, you said that "we may be used by the American army to storm into other continents," whereas our translation says "as world conquerors." I call your attention to the words "als welteroberer," and does not the "als" mean "as" and "welteroberer" "world conqueror"?—A. There are different translations for that. My translation for that would be as stormers of continents.

Q. I don't want to carry this to extreme, but does not "welt" mean "world"?—A. That is correct.

Q. And "eroberer," "conqueror," doesn't it?—A. Yes; you could use that.

Q. So that it means your quarrel with our translation is not so great as it appeared before, isn't that correct, sir?—A. Well, I said in substance it is correct, but if we want to quibble about it, that is not quite as correct.

Q. Pardon?—A. In substance I have admitted it is correct.

Q. And what you omitted from your translation was the phrase
682 "I personally would not like being misused," isn't that what you omitted from your translation?—A. I am not aware of that.

Q. Your translation as I wrote it down when you gave it was that it is not possible that we become soldiers in and that we may be used by the American army to storm into other continents?—A. Yes, sir.

Q. Didn't you omit from that translation the phrase—A. According to your writing; yes; I have omitted it.

Q. Do you dispute my writing of this, sir?—A. No, sir.

Q. Didn't I take it down correctly?—A. I think; yes, sir.

Q. Would you say then, sir, that what you stated in April of 1942 was that "personally I should not care at all to be misused by the American army as a world conqueror"?—A. Well, that was due to my mature age. If I had been twenty or ten years younger I would have volunteered to the American army.

Q. It did not have to do with some notion you entertained that the American army was engaged in a world conquest of which you disapproved?—A. No; as an American citizen I have always deemed to do that which my government wants me to do.

The COURT. Mr. Eriel is here with his notes.

Mr. CORREA. I should like to have that particular part read back so I can continue on that line which I was on before. I 683 asked the witness, now you guessed the first time you saw Thiel, didn't you, that he was here on a mission for the German government, and he corrected me.

(The stenographer read the question and answer as follows:

"Q. You guessed the very first time you met Thiel that he was over here on a mission from the German government, didn't you?—A. I had a hunch; I did not guess it.

"Q. We will adopt your language, you had a hunch. You suspected that he was here on a mission from the German government, didn't you?—A. All right; yes, sir.")

Q. Now, sir, is that the fact, your testimony which you gave here a moment or two ago, which was just read back?—A. Well, I thought you had asked me if he had come in a submarine, but I have been wrong according to his statement.

Q. In other words, that is not the fact?—A. The fact remains that I have understood or have been meant to say that he came in a submarine, and that I have had a hunch.

Q. Didn't you have a hunch that Thiel was here on a mission for the German government?—A. No, sir; I did not have a hunch on that.

Q. You did not have that hunch?—A. No, sir.

Q. Or suspicion?—A. No, sir.

684 Q. Or guess or surmise?—A. The only hunch I had was that he had come by submarine.

Q. Did you feel, sir, that it was your duty to report to the authorities of the United States any person who had come to these shores in time of war by submarine?—A. I wanted to wait the time until Thiel told me what he was up to, and then I would have decided and I would have reported him.

Q. That is what you thought, that you might well have to re-

port Thiel, but you were going to wait and pass on the facts yourself; is that correct?—A. Well, I wanted to hear what he was here for, and what he had to say because he had promised that he would tell Norma Kopp and me as soon as Norma came into town.

Q. Then coming back to my question, do I take it correctly that it was not your feeling that as an American citizen you had a duty and obligation to report any person who came to these shores in time of war in a submarine?—A. I have not paid any thought to that at all, whether I was to report him or not.

Q. You just did not consider whether it was your duty to do so or not?—A. It did not occur to me.

Q. And you did not consider it?—A. Well, I have not had the thought.

Q. Now, sir, when you had a hunch Thiel came here in 685 a submarine, was it your hunch that he came here on an allied submarine or German submarine?—A. In a German submarine.

Q. And I press you further on that point: did not the thought ever cross your mind, now here is a man who has come here on a hostile submarine in time of war and I ought to call his presence here to the attention of somebody in the authorities?—A. No, sir; that thought has never occurred to me.

Q. That thought never crossed your mind?—A. No, sir.

Q. Now didn't you feel, sir, that at the very least, even assuming he was your friend, and I take it you did not want to turn him in unless there were reasons; is that right; and solid reasons?—A. I have not even given that matter consideration.

Q. Didn't you feel this, sir, at least, that at least you ought to disassociate yourself from the man and have nothing more to do with him?—A. I suspended the doubts because I knew he was going to tell me, and then act.

Q. In other words, you had no objection to associating with a man whom you suspected of having come here on a hostile submarine, and a man whom you knew to be a violent Nazi?—A. I have never known Thiel as a violent person.

Q. Well; to be a Nazi; we will strike the "violent".—A.

685 Yes; but the very first time he met me he said "I am anti-Nazi," but I doubted that statement a little, and later on he tried to confuse my mind by saying several things which led me to conclude he had more or less gotten away from the Nazi party and that he had come to this country as fleeing from Germany.

Q. And what did you feel, that the German government had put a submarine at his disposal for that purpose?—A. No, sir; that somehow by pretending and telling lies he may have gotten away.

Q. Is this what you felt about Thiel, what you are telling us now?—A. Yes, sir.

Q. You never told the FBI anything like that, did you?—A. I do not remember.

Q. Oh, don't you perfectly well remember, sir, that you never told them anything remotely like that?—A. Yes, I have told them the very first time that Thiel told me when he saw me, "My name is William Thomas and I am anti-Nazi," but I have made the remark "I do not quite believe that statement," that he was sincere.

Q. When did you tell the FBI that, and to whom did you make the statement?—A. Well, I believe to Mr. Willis.

Q. And when and where, as closely as you are able to recall?—

A. As much as I do recall, the very first night.

Q. The very first night. Was Mr. Ostholthoff present?—A. I do not think so.

687 Q. Was anybody else present or just Willis alone?—A.

Well, I do not recall the incidents. I do recall vaguely though that I have said that.

Q. I want to know when you told Mr. Willis or any other agent of the FBI, for that matter, that Thiel said to you when you met him "I am anti-Nazi"?—A. I am unable to tell you positively when it was and to whom.

Q. But it is your recollection it was Mr. Willis, is that right?—

A. Yes, sir.

Q. Now when Thiel told you that, according to your testimony here, what Thiel said was, and I am quoting your words on the witness stand from the record, page 516:

"Remember now my name is Bill Thomas and I am anti-Nazi. I am anti-Nazi." And you say you think Thiel was trying to persuade you that he was really anti-Nazi.—A. Well, he tried to confuse me throughout his conversation. I have noticed that.

Q. Do you think, when he said to you "I am anti-Nazi" and repeated that over, he was trying to persuade you he was really anti-Nazi?—A. Well, his motives behind it I did not know.

Q. What was your appraisal of that at the time?—A. It sounded rather dubious to me then and later on when he made different other statements—

Q. I am just asking about that statement at the moment, 688 if you will stay on that with me, please now. He told you,

"I am anti-Nazi." He said "Remember, my name is Bill Thomas." Did you think he was trying to persuade you his name was Bill Thomas?—A. The very first time he told me "My name is Bill Thomas, and I am anti-Nazi."

Q. Did you think he was trying to persuade you his name was

really Bill Thomas?—A. Well, I knew his name to be Werner Thiel but he could have assumed the name, of course.

Q. In other words, he was telling you the name he was assuming and wanted you to keep it in mind, is that right?—A. That is correct.

Q. And wasn't he also telling you the pose he was assuming in the same breath practically?—A. Well, he may have been doing that, or trying to convey that to me.

Q. Now you stated in the course of your direct testimony that Thiel told you later on that same evening of June 22nd that he had had a good chance to get away from Germany and took it; that he wanted to be back in America; that he was going to settle down here and get a job as a machinist, and I think all those statements are set forth on page 523 of the minutes. Now are those statements a fact?—A. Yes, sir.

Q. In other words, did he tell you that?—A. Yes; he did tell me that.

Q. Did you state at any time to the FBI that Thiel made any such statements to you?—A. I do not know. I do not think so.

Q. What do you say?—A. I do not know; I do not think so.

Q. Don't you know you did not, sir?—A. I have stated very little of the things to the FBI.

Q. You told the FBI that you asked Thiel why he had come over here, didn't you?—A. Yes, sir.

Q. And you told them what his response to that question had been?—A. Yes, sir.

Q. And you did not give them any such statement as you made here on the witness stand, did you?—A. (No answer.)

Q. Did you?—A. I do not know; I do not think so.

Q. Let me refer you to page 6 of your statement, at the top of the page. Don't you say there it is the first full sentence, the sentence beginning at the first line of that page:

"I had a hunch that Eddie was here for the same reason that Thiel was, but I did not ask him inasmuch as the previous two times I had asked Thiel why he was here, and he had put me off with a smile."—A. Well, that is wrong, because I do remember that I asked him the very first time I saw him, if you came over by submarine, and he gave me a startled look and smiled, and said "Some other time I will tell you all about it."

Q. That is also set forth in the statement.—A. It is not in here.

Q. It is at another place, isn't it, sir?—A. Is it at another place? I do not know, but that was the very first statement he

made. And in the statement there is not the questions he asked me about Norma Kopp.

Q. But this specific statement which I have just read, which is a statement of fact and not hypothetical or speculative or anything else, that statement which you made to the FBI is not true, according to your present testimony?—A. Which statement do you mean?

Q. The statement that on the previous two times that you had asked Thiel why he was here he had put you off with a smile?—

A. Well, he said certain words which I have omitted. The very first time he said "No, some other time I will tell you all about it," and when I asked him again he said "I had a good chance to get away from Germany and I took it."

Q. In your statement you say he put you off with a smile, and in your statement to the jury in this courtroom you say he told you he had had a good chance to get away from Germany and he took it?—A. Yes.

Q. Which is the fact, sir?

Mr. MEDINA. I object to that, your Honor.

691 A. Both of them.

Mr. MEDINA. There is no inconsistency at all.

Mr. CORREA. Now, if your Honor please, I do not know that inconsistency is if this is not inconsistent.

The COURT. I think what he says here is the alleged inconsistency.

Mr. MEDINA. I do not object to calling it an alleged inconsistency, but as I listened, both of the statements are putting him off.

The COURT. Well, the jury can decide that. They are the only ones to decide that.

Q. You never told the FBI anything about Thiel being a refugee over here, did you, sir?—A. I do not know. I think I have told them that.

Q. Whom did you tell in the FBI, and when, and where?—

A. I told them immediately that Thiel had been—that the draft board had been looking for Thiel and that he was trying to evade the draft board. I have told them that.

Q. Yes?—A. And what else do you want? Thiel was a refugee?

Q. Yes; in the sense that he had escaped from Germany. As you put it, he had seen a chance to get out and had gotten out?—

A. That is what he told me.

Q. Did you ever tell the FBI he told you that?—

692 A. I do not know. I do not know if I did.

Q. Don't you know that you did not?—A. I have told them so many things I do not know which one I have told them.

Q. You mean so many different stories?—A. No, sir; things we had—I have not been able to recall the whole story but gradually I have pieced together and later on I have thought the whole matter and things which I have talked come to my mind.

Q. Now, sir; don't you think it is a pretty remarkable thing that a man who wanted to get out of Germany would find a way of fleeing by submarine?—A. Well, yes; it would seem remarkable.

Q. And isn't that the kind of thing that when you heard it would make an impression on your mind?—A. Well, yes; under ordinary circumstances it would.

Q. And this statement was taken, wasn't it, on Sunday, the Sunday following the Monday you first met Thiel; isn't that so?—A. That is correct; yes.

Q. And you say the fact that Thiel had told you that he had seen a chance to get out of Germany and taken it was not on your mind at the time you gave this statement?—A. It has been there all the time.

Q. It has been in your mind all the time?—A. Yes, sir.

693 Q. Why did you withhold that statement from the FBI, sir?—A. Well, because I thought it was really rather ridiculous.

Q. Are there any other things that you think really rather ridiculous which you are withholding from this Court and jury now?—A. No, sir; I am not withholding anything of importance. Those are the things he told me and I have told everything Thiel has purveyed and told me.

Q. Did you say you are not withholding anything of importance?—A. Pardon me?

Q. Did you just say you are not withholding anything of importance?—A. I say that I am not withholding anything pertaining to Thiel.

Q. Well, you did withhold this statement from the FBI because you considered it unimportant, is that why?—A. Well, I believed it rather groundless, ridiculous, because I myself, doubted it.

Q. Now, sir; at this meeting you had with Thiel on June 22nd, isn't it a fact that you asked Thiel whether he had come over here to spread rumors and incite unrest rather, by spreading rumors?—A. Yes, I did ask him that.

Q. In the account of the meeting which you gave on your direct examination you did not say that, did you?—A. I have forgotten that.

694 Q. You now say you did ask him that?—A. Yes, sir.

Q. Does that mean that you did suspect at the time you put that question to him that he was here on a mission for the Ger-

man government?—A. Well, according to that I must have suspected that.

Q. Well then your answer to me a few minutes ago that you did not have that suspicion of him was not so, is that right?—

A. Well, sir; I believe you are absolutely trying to confuse me.

Q. No I am absolutely not trying to confuse you, Mr. Witness. I am trying to elicit the facts from you. Didn't you say here just a few moments ago—you said first that you suspected Thiel was over here on a mission for the German government, and then you said you had misunderstood that question and you had not suspected that, and now, as I understand it, you tell me again that you did suspect that he was here on a mission for the German government.—A. The fact remains that at the time when I saw Thiel I was overjoyed in seeing an old friend, and I paid every little attention to any kind of facts, and after, and when I saw these things different, they have been suggested to me, but then I suspended all kinds of doubt until Thiel would tell me what he is here for. That is the truth.

Q. Let me get back to the fact, if I can: Didn't you ask 695 Thiel at this meeting, "Are you, Thiel, over here to incite unrest by spreading rumors?" Did you ask him that?—

A. As much as I do recall; yes, I have asked him that.

Q. And I say therefore you suspected at that meeting that he was here on such a mission for the German government.—

A. According to that; yes, sir.

Q. Didn't you feel, well, then, he would be an enemy agent, wouldn't he?—A. If he was here for that purpose he would be.

Q. And you suspected he was here for that purpose, so you suspected he was an enemy alien, didn't you?—A. Well, I do not know if I suspected him of anything. I was suspending all doubt. I left it again until he would come and tell me, which was the time that Norma Kopp would come to the city, as he had promised.

Q. Didn't you feel, sir, that it was at least your duty to have nothing to do with a man you suspected, of being an enemy agent?—A. I have never given that a thought at all.

Q. In any event, you did not try to avoid seeing Thiel again, did you?—A. No; I did not.

Q. You did not try to avoid helping him in any way, did you?—

A. Well, what I have given help to Thiel was to get my money back, my two hundred dollars, and I done that for that purpose.

Q. Do I understand you to say, sir, that your state of 696 mind was that you were willing to help a suspected enemy agent?—A. No, sir.

Q. (Continuing.) In order to get your \$200 back?—A. No, sir.

Q. You do not mean that, do you?—A. No, sir; I did not say that.

Q. Didn't you feel that the least you could do was to have nothing to do with a man you suspected of being an enemy agent in time of war?—A. I should have felt like that but I have not given it any attention.

Q. I am asking you did you feel?—A. As much as I can see today: no.

Q. And you had no objection to helping a man you suspected of being an enemy agent here in time of war?—A. I have suspended all doubts, as I said before, until he would tell me.

Q. Well, what is the answer to my question, sir? I do not think that answers it.—A. Would you please repeat?

Q. I say you had no objection to helping a man you suspected of being an enemy agent?—A. Oh, yes, I would; any time. I would always object to that and never do that.

Q. But you helped Thiel, didn't you?—A. I did; yes, sir.

697 Q. And you suspected him of being an enemy agent?—

A. No, sir.

Q. You said a moment ago you did, I thought.—A. This thought has been, might have been in my mind. I am not quite sure about that, and I repeat again that I have suspended all doubts until Thiel would tell me.

Q. Now isn't it a fact, sir, that you expected to see a great deal more of Thiel after this evening of June 22nd?—A. It is a fact that I was interested to have Norma Kopp see Thiel.

Q. No; but isn't it a fact that you yourself expected to see Thiel quite often again?—A. Well, next evening, Thursday.

Q. And didn't you also expect to see him whenever he needed any money?—A. I have given that thought little attention. I do not know.

698 Q. Well, you were taking his money, weren't you?—

A. Yes, sir.

Q. And I understood you to say in your testimony that the arrangement was that when Thiel needed money he was to come to you?—A. That was the preliminary arrangement; yes.

Q. As a matter of fact he even asked you to keep a small amount in your apartment so that if he needed a small amount or any fine he needed a small amount he could come to your apartment and see you and get it; isn't that right?—A. Yes, sir.

Q. So you did expect to see a great deal of Thiel, didn't you?—A. Well, depending on what Thiel would have told me.

Q. Now, sir; you are an intelligent man, aren't you?—A. I doubt it now.

Q. You read the Constitution of the United States very carefully?—A. Yes, sir.

Q. You know a good deal about your obligations as a citizen, don't you?—A. Yes, sir.

Q. Do you still say that you felt there was nothing inconsistent with your obligation of undivided allegiance to this country in acting as banker for this person you suspected of being an enemy agent?

699. Mr. MEDINA: If your Honor please, I have not objected because that question has been put about forty times and each time the witness said that he did not suspect it, or that he is not sure what his state of mind was. Now I do not see why, and I do not see how it helps any, he should keep tagging that onto every question, and I object to it.

Mr. CORREA. If your Honor please, the witness has been asked, I agree, about forty times didn't he suspect Thiel of being an enemy agent, and I submit he has made about forty different answers to that question. One minute he says he did and the next minute he says he did not.

Mr. MEDINA. All I say, your Honor, is tagging that on to every question, so that each question is a double question or a triple question with that in there—that is what I object to.

Mr. CORREA. I can point out many places where he said he suspected this man of being an enemy agent. I point out, if your Honor please, that on direct examination we had the witness's state of mind and loyalty very widely explored.

Mr. MEDINA. I withdraw the objection.

Mr. CORREA. As to his loyalty to this country. And I think I am entitled to explore the consistency of his acts with those statements.

700. By Mr. CORREA:

Q. You have the question?—A. Pardon me, sir?

Q. Do you have the question?—A. No, sir; I have not.

(The question referred to was read as follows: "Q. Do you still say that you felt there was nothing inconsistent with your obligation of undivided allegiance to this country in acting as banker for this person you suspected of being an enemy agent?"—

A. Today I know that I have acted wrong, but I did not know then that I was wrong—that I did anything wrong against my country.

The COURT. We will suspend now until tomorrow morning at half past 10.

(Adjourned to Wednesday, November 18, 1942, at 10:30 a. m.)

701 [Title omitted.]

NEW YORK, November 18, 1942.

10:30 o'clock, a. m.

Trial resumed.

ANTHONY CRAMER resumed the stand.

CROSS-EXAMINATION resumed by Mr. CORREA:

Q. Mr. Cramer, you testified on your direct examination, did you not, sir, that on Thursday night June 25th, when you went down to meet Thiel and he did not show up, you had a thought that he might have been arrested?—A. Yes, sir.

Q. And you stated that that thought definitely occurred to you on Friday night, when again you could not find Thiel; is that correct?—A. Yes, sir.

Q. Do you recall that you told us that your thought was that even if Thiel was arrested nothing could happen to him, inasmuch as he had come to this country with no ill purpose as far as you knew, and you thought all that could happen to him would be that he would be interned as an alien enemy?—A. That is correct. That is right.

Q. Now, sir; didn't you state to the FBI, and indeed to us here yesterday on your cross-examination, that you suspected 702 that Thiel had come here for the purpose of inciting unrest by spreading rumors?—A. Well, that was a thought which had no ground whatsoever. It occurred to me and I immediately rejected it.

Q. Didn't you suspect Thiel of being an enemy alien?—A. No, sir.

Q. At any time after you met him?—A. At no time.

Q. And anything you said yesterday to the contrary is just not true; is that, right?—A. Well, by that I mean that a thought may have skimmed my mind, but I had no ground, I never investigated it.

Q. By the way, when you were with Thiel you asked him, didn't you, whether he was over here to spread rumors?—A. Yes, sir; I did.

Q. And did he come right back and say "No, certainly not"?—A. He gave me the equivalent of the answer that I was asking quite a few questions, and that among friends one should guess and not ask.

Q. So from that you concluded the answer was no; is that correct?—A. Well, I suspended all doubts, as I have repeatedly said, as he was going to tell me.

Q. In any event on Friday or Thursday, or either of those nights, when you thought Thiel might have been arrested, you never connected that up in your mind in any way with your question to him about his being here to incite unrest and spread rumors?—A. No, sir.

703 Q. Or with any suspicion as you may have entertained at any time that he was in truth an enemy alien?—A. That is correct. All I thought was if he gets arrested he could be put in a concentration camp as an enemy alien.

Q. Now, you have stated in your conversation with Thiel on one of these nights, I think the 22nd—my notes do not indicate—you took the attitude that Germany was too militaristic and partly the cause of the present war?—A. Yes, sir; I have always taken that attitude.

Q. You have always taken that attitude?—A. Yes, sir.

Q. Now, sir; is it not the fact that at least in November of 1941 you took quite the opposite position, that Germany was merely fighting for survival and that it was essential that Germany hold out?—A. Well, at the present moment it may have been, but the past of Germany was too militaristic, too uncompromising.

Mr. CORREA. May I have that answer read.

(Answer read by reporter.)

Q. Listen to the question, Mr. Witness? I do not think you understood it. [Question read.] Did you take that position in November of 1941?—A. Yes; I do not deny that.

Q. You also stated on direct that since the U. S. was attacked it is your view that the United States cannot do anything but fight and win, for you say according to the minutes, "Otherwise it 704 will be the end of our country." Is that correct?—A. Well, I do not know the "end of our country," but we cannot—

Q. I mean is that what you stated? All I am asking is that what you stated on your direct examination?—A. I do not recall that.

Q. Do you recall stating that your view since the United States was attacked has been that the United States cannot do anything but fight and win?—A. That is correct. That is my attitude today and was always.

Q. You stated on direct, I think that that has been your attitude since this country was attacked.—A. Yes, sir.

Q. Now, sir; you have listened to Axis propaganda broadcasts, I think you told us, haven't you?—A. Yes, sir.

Q. O. K. and Lord Haw Haw?—A. Yes, sir.

Q. And you know, don't you, that the Axis propaganda line is that America is not fighting a war of defense but rather one of aggression, and that America and England are seeking to conquer the world?—A. Yes, sir.

Q. You know that is their propaganda line?—A. Yes, sir.

Q. Now, is it your statement to this Court and jury that is not your position at all, that you felt sincerely that America has been attacked and must defend itself?—A. It must defend itself to—

Q. That is the statement of your position?—A. That is correct; yes, sir.

704-A Q. However, that was not your point of view in April of 1942, was it?—A. When was that, sir?

Q. In April of 1942. April of this year?—A. I do not quite understand what you are referring to.

Q. I say was that your point of view in April of 1942?—A. Yes; I understand, but you put "April 1942."

Q. I am asking you about that specific time, sir?—A. It has always been my contention that the United States must fight to win the war.

705 Q. Didn't you feel in April of 1942, that the American Army was seeking to become a world conqueror and was misusing men who had been drafted for that purpose?—A. In order to win the war we have to fight this kind of war.

Q. And didn't you feel that they were misusing men who were being drafted?—A. No, sir.

Q. So that your statement in your letter of April 1942—"I should not care at all to be misused by the American Army as a world conqueror"—does not indicate any different view on your part from the view you expressed here on your direct examination?—A. Well, that was referring to my age; although I would have gone any time and fight for the United States, which I regard my duty.

Q. Now you testified on your direct examination that Thiel, I think, on the occasion of this first meeting, you said the first meeting with him on June 22nd, showed you a draft registration card made out in the name of William Thomas?—A. Yes, sir.

Q. And you told us that you told Thiel—I don't recall your exact words, but to the effect that that was a dangerous thing for him to have, or something of that sort, isn't that so?—A. Yes, sir; that is what I thought.

Q. You never told the FBI anything about that heretofore, did you?—A. No, sir; I do not think so.

706 Q. Isn't that something you thought up for some purpose of your defense in this case?—A. To defend myself?

Q. Yes; isn't it a pure invention, sir?—A. No, sir; it is not an invention. It is a fact.

Q. Isn't it the fact, sir, that the question of Thiel using the name Thomas, was one of the things you discussed when you were giving the FBI this statement which was your Exhibit C, this statement of June 28th?—A. Yes, sir.

Q. And isn't it the fact too, sir, that in that statement you told

the FBI in so many words "I should state that when I first saw him [referring to Thiel], he told me to call him Bill, that he was now known as William Thomas. He did not explain to me why he had changed his name.—A. Then he did not.

Q. Is the "then" in the statement, Mr. Witness? You look at it and tell me. Maybe I have misquoted [handing statement].—A. What page is it, sir?

Q. Page 6. I opened it right before you. It is the last paragraph, four or five lines from the bottom.—A. "That he was known as William Thomas. He did not explain to me why he had changed his name."

Q. He does not say "then" but—A. He did tell me that later when he showed the draft card.

Q. Yes; but your statement here is without qualification
707 that Thiel did not explain to you why he changed his name. Isn't that so?—A. That is correct. It says so.

Q. So this statement here, according to your present testimony, is not true, is it?

Mr. MEDINA. If your Honor please, I cannot refrain from objecting here. When Mr. Willis took the stand and testified, as everybody remembers, that the witness did explain to him he was telling those lies in the beginning to protect Thiel against this draft charge.

Mr. CORREA. That is not so.

Mr. MEDINA. But it is so.

Mr. CORREA. It certainly is not. If your Honor please, I have never heard a more basic misunderstanding about the evidence in this case. What the witness said is when he was first interrogated he said that the man with whom he had been in Thompson's was William Thomas, and the FBI said: "We know it is Werner Thiel. Isn't that so?" and he said "Yes. He is using the name Walter Thomas because of some draft charge," and then he continued to lie about Werner Thiel and said he has not been out of the country and finally he said he wanted to see Ostholtzoff alone and when he saw Ostholtzoff alone he said nothing about Thiel being under the draft charge.

Mr. MEDINA. May I read from the minutes, your Honor. Fortunately I have been able to find it quickly enough.
708 This is Mr. Willis's cross-examination on page 233. He continues to answer: "He did elaborate by saying that the draft board was trying to ascertain the whereabouts of Werner Thiel." And then a question by me: "And did he not indicate to you that the trouble was that Thiel had not registered for the draft and that is what was making the trouble?—A. Yes."

And then there is a good deal more to the same effect, and as I have a very distinct recollection, this witness did explain to

Mr. Willis that same evening about this draft business and that that was the reason why the name of William Thomas was used.

Mr. CORREA. Now I have stated what occurred that evening, Judge, and I point out further that the witness himself has said he never told the FBI about this. Now apparently counsel knows more about it than the witness, because his testimony at the beginning of this line of examination was that, when I asked him that, Did you ever tell the FBI this—we are not discussing a failure to register; we are discussing the testimony he gave on direct examination that Thiel or Thomas had a card made out in the name of William Thomas—I don't think this line of cross-examination should be interfered with this way, Judge.

The COURT. The jury can determine. They have heard the testimony and they will decide.

709 (Question read as follows: "Q. So this statement here, according to your present testimony, is not true, is it?").

Q. What is your answer to that, Mr. Witness?—A. I have omitted that.

Q. What about your statement here, in the written statement which is before you, is it true or isn't it true?—A. Yes; that he told me, "My name now is William Thomas," and later on he told me the reasons for that.

Q. No, sir. Your statement here in so many words is, "He did not explain to me why he had changed his name." Is that true or isn't it?—A. He may have left out perhaps "then," and I have not been able to know the significance then when I read it.

Q. Cannot you tell me straight out, sir, whether this sentence here "He did not explain to me why he had changed his name" is true or untrue?—A. This statement is true. He did not then explain to me it should have been written.

Q. But the statement does not say "then" does it?—A. He did not tell me then, but he has told me later. I have always said that.

Q. Do you say you ever told the FBI that Thiel had a registration card made out in a fictitious name?—A. Well, I do not recall if I told him that.

Q. Did you ever tell them that, sir?—A. I do not recall.

710 Q. Didn't you say before, before we had this argument here in court, that you did not? Are you now hedging that a little to say you do not recall?—A. No; I am not able to recall.

Q. But you say before when we started this examination that you did tell it to the FBI.—A. Did I tell that?

Q. That is my recollection of your answer.

Mr. MEDINA. No. He never said he told them. He said all along he did not tell them.

Mr. CORREA. That is what I just said.

Mr. MEDINA. That is what he is trying to say.

Mr. CORREA. No; he is saying now he does not recall.

Q. You say now you do not recall whether you told them that or not?—A. I do not recall that.

Q. Was that something, sir; that you did not consider important?—A. Well, I may not have thought about it. The fact is, and I say it again, that Thiel has told me later this is the reason why my name is now William Thomas, and he showed me in connection with those words his draft card.

Q. I just asked you, did you tell the FBI Thiel had this draft card?—A. Well, I tell you again, sir; I do not recall that.

Q. I say to you, didn't you consider that important to mention that?—A. I consider it now important, but I do not think I considered it important then.

Q. Now, sir, you stated in your direct testimony that when Thiel told you on June 22nd that he had between three and a half and four thousand dollars with him in American money, you asked him where did he get it?—A. Yes, sir.

Q. That is correct, I take it?—A. Yes; as I recall.

Q. And you did do that, is that right?—A. Pardon me?

Q. You did ask Thiel that question?—A. Yes, sir.

Q. And you said Thiel answered you and said, and I quote your answer, "Well, if you have the right kind of connection you can even get dollars in Germany."—A. That is right.

Q. And was that the answer Thiel made to you?—A. Pardon me?

Q. Is that the answer Thiel made to you?—A. Yes, sir.

Q. Now again you did not tell the FBI that, did you, sir?—A. Have I signed that statement in here?

Q. Don't you know whether you did or not without looking at the statement?—A. Well, my memory is rather fallacious and I do not recall that.

711-A Q. What is your recollection, unaided first, if we may have that, as to whether or not you told the FBI this statement of Thiel's which you say he made to you about "if you have the right kind of connection you can get the money in Germany," did you tell them that or didn't you?

Mr. MEDINA. The question is not whether it is in the paper but whether he told it.

A. I do not recall it. I do not know.

712 Q. You do not recall whether you told him that or not; is that right?—A. No, sir.

Q. Now, sir, isn't it the fact that what you told the FBI was that you asked Thiel more than once how he got the money and

his answer was he would let you know later?—A. I may have asked him a couple of times, but I do recall that I asked him once and he distinctly gave me the answer "If you have the right kind of connections"—pardon me—"the right kind of connections, you can get even money in Germany; dollars in Germany."

Q. And the statement you gave to the FBI was referring to some other time and not this time; is that right?—A. I do not recall that.

Q. Look at your statement page 5, the second paragraph, about midway down. Do you see where it reads "I asked him again how he got the money. He told me he would let me know later."—A. I do not recall that.

Q. Sir?—A. I do not recall the time—

Q. Do you find the place?—A. Pardon me? Yes; I find the place.

Q. Again, as to that statement, is that so? Is that statement so, Sir? Is that the fact?—A. It may be the fact. I do not know. I do know that—

Q. Did you tell the FBI when you made this statement that it may be the fact, that you did not know?—A. Well, 713 most of the questions that were put to me were put to me in a leading manner, leading up to something which I do not know now.

Q. Who did all this?—A. Pardon me?

Q. Who did all this leading according to your statement?—

A. There were several of them.

Q. Mr. Willis or some other agent? Name them; will you?—

A. Mr. Willis and I believe Mr. Brown was there.

Q. Who?—A. Brown.

Q. Anyone else?—A. I do not recall the names.

Q. Well, who put the leading questions which you say misled you?

Mr. MEDINA. I object to that. He did not say any questions misled him. I do not see what there is about leading questions that is so significant.

Mr. CORREA. I do not either, Judge.

Mr. MEDINA. He did not say anything about misleading him anyway.

Mr. CORREA. It is the witness seems to think that is significant; I do not.

The COURT. Go ahead, Mr. Correa.

Q. Well, who put these leading questions to you?—A. Well, most of the questions have been asked by Mr. Willis.

Q. When you told us that business about leading 714 questions a moment ago, what do you mean, that you were

misled by them?—A. I would not say mislead, but the last statement I do recall that this was put to me in a manner—the last paragraph of my statement I made to the FBI, I do recall that these statements were put to me not in a misleading manner but in a manner that I was led up to these points and finally he wrote them down.

Q. So that you were in-effect misled, that is what you are saying, isn't it?—A. I do not know that it is misled but—

Mr. MEDINA. Your Honor, that is the paragraph about if he did this would he do that, and if this happened would he do that. May that appear?

Mr. CORREA. If we are going to have any such reference to it—

Mr. MEDINA. But that is it.

Mr. CORREA. Let us have the paragraph read.

Mr. MEDINA. But when a reference is made to the last paragraph may the jury not know what that paragraph is?

The COURT. He is asked a very direct question, did he say this and was it true.

Mr. MEDINA. I think not. I thought he was asked whether there was anything said that misled him, and he said as to the last
715 paragraph he was led up to that; and all I want is to have the jury know what that paragraph is.

The COURT. You may ask him later.

Mr. MEDINA. They will forget by that time.

Mr. CORREA. I do not think they will forget, Judge.

Q. As a matter of fact, Mr. Witness, we were discussing not the last paragraph, when you got off into these leading questions, but a statement in the paragraph on page 5, weren't we?

The COURT. What is that statement? So there will be no question.

Mr. CORREA. The statement is this, Judge. It says "I asked him" referring to Thiel "again how he got the money. He told me he would let me know later."

The COURT. Now what was your question to the witness?

Mr. CORREA. My question to the witness is simply, is that statement the fact?

The COURT. That is a simple question.

Mr. CORREA. I have not been able to get an answer.

The WITNESS. All I can say is that I do not recall that.

716 The COURT. You do not recall what, whether it is true or not?

The WITNESS. No; this particular kind of question, in the manner Mr. Correa has put it to me.

The COURT. There is not anything about the manner. Those are just simple words. Did you make that statement and was it true?

The WITNESS. Yes, your Honor.

The COURT. It is a simple question.

The WITNESS. I do recall that I asked him once "Where did you get the money?" And he said—

The COURT. Speak loud.

The WITNESS. "Where did you get the money?"—And he said, "If you have the right kind of connections you can get even dollars in Germany."

The COURT. Now that is not the question you were asked at all. You were asked whether you made the statement Mr. Correa read. You are asked whether it was true or not. Take all the time you want and give us a direct answer.

The WITNESS. To that I must say I do not recall the other questions—the other answers to the questions.

Mr. CORREA. I do not know that that is an answer either, Judge.

The COURT. The jury can draw their own conclusion whether that is a direct answer.

717

By Mr. CORREA:

Q. Now, sir, is it true, irrespective of the fact of what you say now about this statement in here—A. Yes, sir.

Q. That on Monday, or yesterday—yes, excuse me, yesterday morning—you stated to your counsel here that everything in this statement was the truth? Didn't you say that?—A. My answer was too quick to that. I have not been thinking about it, the significance of the question.

Q. He took you by surprise?—A. Yes, that is it.

Q. Well, you knew you had been asked about this statement; you knew there had been testimony about this statement. Weren't you thinking about this statement throughout the trial?—A. Yes, I was.

Q. When you were asked was everything in here the truth you were not being pressed anduly for a speedy answer. You did not ask to look at the statement since, did you?—A. No, sir.

Q. As a matter of fact if my recollection now serves me you did look at it before that question was put to you, didn't you? Yes, because you identified your handwriting on it, don't you remember?—A. Yes, sir; I looked at the handwriting.

Q. And looked over each page, as I recall it, because you signed each page at the bottom.—A. I looked at the handwriting.

Q. You sat there and heard your counsel read it to the jury; you remember that?—A. Yes.

Q. And read it slowly and distinctly. Do you recall that?—A. Yes.

Q. You did not interrupt him at any point and say "Just a

minute, that statement there may be the truth or not, I do not recall it," did you?—A. No, sir.

Q. You did not say to him of any statement he read out of this paper, the paper you have up there, "I am not sure that statement is exactly the fact"?—A. That is correct.

Q. But you say now—A. I would say it is only part of the truth.

Q. It is only part of the truth?—A. Yes, sir.

Q. Now isn't it true, sir, that not only is this only part of the truth but that there are statements in here which are flatly untrue? Is that true or is that the fact?—A. Are you referring to a specific statement?

Q. No, any statement you can think of in there. I just say to you there are statements in there.—A. There is one statement that is an untruth, that Werner Thiel has never told me anything on what mission he was in this country. I have never known that.

719 Q. Is that in the statement?

Mr. MEDINA. That is not in there.

Q. Is that in the statement?—A. Well, it is referring to a military commission—a military mission, rather, pardon me—and I have never know that: I have never had the slightest amount of certainty about that.

Q. You apparently have in mind something you said in there. If you can find it without taking too much time I would like to know what it is you are repudiating.

Mr. MEDINA. I may state, your Honor: there is no such thing in there. I think my memory is pretty good.

Mr. CORREA. Yes, but I prefer to take the witness on his own statement.

Mr. MEDINA. All right.

Mr. CORREA. And I think I am entitled at least to know what he tells us about this statement now.

Q. Can you find the statement you refer to, sir?—A. Well, there has been a talk—I do not know if it is in here—about my having said that I believed Thiel was here on a military mission, and I believe the statement had been made by Mr. Ostholthoff, and that is the statement, as I know, I have never made to Mr. Ostholthoff.

Q. Mr. Cramer, you are an intelligent man. You heard my my question: I think you understood it—A. If there was
720 anything in here about a military mission.

Q. I am asking you whether there are any statements in here which you now say are untrue. That has been my question. Why can't you answer that directly, and not go off into something else?—A. Yes; there is one statement, that I have asked him repeatedly about the money. As much as I do recall I asked him

only once and he said "If you have the right kind of connections you can get even dollars in Germany."

Q. And that statement is just not true?—A. That is this statement I just made is true, and the statement according to that is not true.

Q. Did you know it was not true when you made it to the FBI?—A. Well, I do not know at that time; I was very confused and I may have said things which in the light of later consideration were different.

Mr. MEDINA. Where is that statement, Mr. Correa?

Mr. CORREA. Page 5.

Mr. MEDINA. That is about the money?

Mr. CORREA. Yes, that is the one he just referred to.

Q. Now, sir, you stated on your direct examination, did you not, that you met Thiel on June 23rd?—A. The first time I met Thiel, June 22nd.

Q. And then you met him again on the 23rd?—A. Yes, sir.

721 Q. You stated, did you not, sir, that Kerling—that you met Kerling on the 23rd?—A. Yes, sir.

Q. With Thiel?—A. Yes, sir.

Q. That is, that you met Thiel and then Kerling came in?—

A. That is correct.

Q. To the Twin Oaks Inn?—A. That is correct.

Q. Didn't you tell us before Kerling came, Thiel told you Kerling was coming?—A. Yes, sir.

Q. And that you asked Thiel "What does he want to do here?"—referring to Kerling?—A. Yes, sir.

Q. And Thiel said he wanted a change—that is, that Kerling wanted a change because he disliked Germany and had come to this country?—A. That is right.

Q. I read from the record at page 534. You never told that to the FBI, did you, sir?—A. I do not know.

Q. Well, let me get down to the gist of it. Did you ever tell the FBI that Thiel had told you that Kerling had come to this country because he disliked Germany?—A. I do not know. I cannot tell you, sir.

Q. Don't you know you didn't, sir?—A. No, sir; I do not know that.

Q. Isn't this just an invention for the purposes of this trial?—A. No, it is not.

722 Q. And you cannot answer my question as to whether you told that to the FBI any better than that you do not know whether you told them?—A. That is right. I do not recall it.

Q. At least we can agree on this—that it is not in the statement;

isn't that so? Why don't you take my word for it, and counsel can check it against his copy.

Mr. MEDINA. I do not need to check.

Q. Now, sir, you told us on direct examination that when Kerling came in you asked him what brought him back to this country; did you not?—A. Yes, sir.

Q. And you say that is the fact; is that correct?—A. Yes, sir.

Q. And you told us, did you not, that Kerling told you why, that he came back because he did not like Germany?—A. Yes, sir.

Q. That he did not like the coercion in Germany?—A. Yes, sir.

Q. And I think you added that he liked the steaks and coffee over here; is that right?—A. Yes, sir.

Q. That is just about the opposite of what you told the FBI, isn't it?—A. I do not recall what I have told the FBI about Kerling.

Q. Look at page 5, I think it is, of your statement, sir, and tell me didn't you say to the FBI there that you did not ask Kerling why he was here because when you asked Thiel why he was
723 here Thiel had put you off? I refer to the top of page 5.

Mr. Witness, the sentence starting there "I had a hunch that Eddie was here for the same reason that Thiel was, but I did not ask him, inasmuch as the previous two times I had asked Thiel why he was here he had put me off with a smile."—A. Well, the fact is that I did ask him.

Q. And this statement here "I did not ask him" is not the fact, is it, according to your present testimony?—A. No; it is not. That is not the fact.

Q. Again let me ask you, at the time you made that statement to the FBI did you know it was untrue?—A. Well, again I say that I have paid very little attention to the statements I made, because I did not know what consequences were involved. I thought that I might go home again in a couple of days and they simply got me to get a statement what was what, and so I thought it was of minor consequence.

Q. Yes; but you mean as long as you were going home again in a couple of days it did not matter whether the statement was the truth or sheer falsehood; is that your testimony?—A. No; I did not apply my power of recollection, as I did later on, in order to find out or ponder what they really had said.

Q. Now, sir, when your counsel asked you on direct examination wasn't this statement the truth, and you did
724 not say anything about this particular statement concerning your conversation with Kerling being false. Did you?—A. Will you please repeat that?

Q. I say when you answered on direct examination here that this statement was the truth you did not make any exception of

any part of it such as the part you have just referred to, did you?—

A. No, sir; I don't think I have.

Q. And you heard this statement of your conversation with Kerling read here, didn't you?—A. Yes, sir.

Q. While you sat on the witness stand?—A. Yes, sir.

Q. And you did not feel it was necessary to amend it or modify it in that respect, did you?—A. That is correct.

Mr. CORREA. I have nothing further with this witness.

Redirect examination by Mr. MEDINA:

Q. I show you this copy of the Constitution that appears in the page from the New York Times, and I also show you a paper Government's Exhibit 55-A [handing to witness]. Did you write out that paper 55-A at the request of Mr. Willis?—A. Yes, sir; I did.

Mr. MEDINA. May I read that to the jury, your Honor. [To jury.] This is like so many others of these similar papers. It says, August 12, 1942. I hereby identify a page of the

724-A New York Times newspaper dated Friday, September 17, 1937, as having been part of a newspaper obtained by me

• • • a date which I do not recall. The lines"—and you gentlemen remember how Mr. Correa showed you the places where these ink lines appeared—"the lines appearing on the page of the New York Times were made by me in ink." Signed Anthony Cramer; Witness: John G. Willis.

725. Q. Now, Mr. Cramer, tell the jury in your own way what you recall about where you got that paper, how you happened to keep it, and what the occasion was for you putting the lines on those various provisions?—A. Well, this paper, dated September 17, 1937, I found in a wastebasket, and it struck me. I, when I saw this page of the United States Constitution which was contained in the New York Times, tore out this page and took it to my room for the purpose of studying the Constitution of the United States, and I do not recall when these marks were made. Mr. Willis suggested to me, "Are they made a year or two ago," and I said "Perhaps. I do not quite recall."

Q. Now let me ask you there, you used the word "suggested." I don't think you mean to say Mr. Willis put the word into your mouth, do you?—A. We, as I recall, yes, he said "Are they made a year or two ago?" and I said "I do not know." I said "Perhaps a year or two ago," and I said "I really do not know."

Q. Then he merely asked you questions tending to bring out the correct answer as to when the lines were put there?—A. That is correct, as I concede, yes.

Q. Now, when a Government agent is asking questions he has

to put them in a way that will elicit the fact, hasn't he?—A. I see that now; yes, sir.

726 Q. When he asked you about the time, did he ask you when you found the paper, or when you put the lines on?—

A. I am not quite sure on that. I do recall that he asked me when these lines were put on there; when the markings were put on.

Q. Before you get to the matter of putting the lines on, I want to find out from you when it was that you found the paper and tore off the page?—A. Well, as it was in a wastebasket it must have been some time in 1937.

Q. You think it was about the time of the date of the paper?—A. That is correct; yes, sir.

Q. But you are not sure about that, as I understand?—A. No; I am not positive about that.

Q. How long after you found it—or let me withdraw that and put it differently—what basis have you to tell this jury as to when you put those lines on there? How do you figure it out?—A. Well, I have only a vague recollection and I cannot actually deny that it is longer than two years, but I do recollect that I had been bending over this page and reading the United States Constitution and marking such paragraphs which struck me, I might say, as unusual. That is the whole significance of the thing. And I have not been able, after a year and a half or so after I read it, to recall any single paragraph of what it was.

727 Q. Is it a fair statement to say that you looked it over a good many times and that some time you put those lines on there to indicate the parts of the Constitution that you thought were unusual and did not understand?—A. That is correct; yes, sir.

Q. Now, let me just ask you about one of those; I notice here there is a mark of your opposite the part of Section 8 that reads, and that defines the powers of Congress, "To declare war, grant letters of marque and reprisal." Did you have any idea what letters of marque and reprisal were?—A. No, sir; I had not.

Q. Did that strike you as something you wondered about?—A. Well, it may have struck me at that time as unusual. I do not recall that.

Q. I notice you marked here another one, "No bill of attainder or ex post facto law shall be passed." Do you know now as you look at these jurors what a bill of attainder is?—A. No, sir; I do not.

Q. Or what an ex post facto law is?—A. No, sir.

Q. Did those phrases strike you as curious and phrases that you did not understand?—A. Yes, sir. It is my habit when I see a phrase I do not understand, to mark it and look into a book later in order to understand.

Q. As a matter of fact, you spent a good many quiet evenings up in your room trying to improve yourself, didn't you, over all these years, Mr. Cramer?—A. That is correct.

Mr. MEDINA. That is all.

Mr. CORREA. No further questions.

Mr. MEDINA. Defendant rests.

Mr. CORREA. The Government rests, if your Honor please. No rebuttal.

Mr. MEDINA. I have certain motions which I want to place upon the record, and I think, if your Honor please, that that should be done in the absence of the jury. It may be regarded as argumentative and I do not want to get into any wrangle about that.

The COURT. Yes. Gentlemen, you may be excused for a while. (Jury retired.)

Motion for a directed verdict

Mr. MEDINA. I move for the direction of a verdict in favor of the defendant. My first ground urged in support of this application for a direction of a verdict in favor of the defendant is that the Government has failed to allege or prove overt acts sufficient to establish the alleged treason. The overt acts must themselves manifest a treasonable and traitorous purpose. This case is not analogous to conspiracy cases where there may be a conviction on proof of overt acts, innocent in themselves, in the event that the requisite intent is proved.

The requirements in a treason case are that the overt acts must themselves manifest a treasonable purpose and design. For example, the act of the defendant in talking to Thiel and Kerling, and with Thiel alone, as alleged in overt acts numbers one and two, there being no evidence of what the parties talked about, in and of itself manifests no traitorous or treasonable design.

Thiel and Kerling must have talked to many persons in the period between their arrival in this country and their apprehension.

Limiting ourselves at the moment to the question of the sufficiency of these talks and the overt acts, it is obvious that such talks between the defendant and Thiel and Kerling acquired a sinister or traitorous aspect on the assumption, and only on the assumption, that the defendant harbored a traitorous intent in conferring with Kerling and Thiel. But the mere act of conferring in and of itself does not openly manifest any treason.

In support of this ground for the direction of a verdict I cite to your Honor the opinion of Judge Learned Hand in *United States v. Robinson*, 259 Fed. 655, where he said, at page 690, and I quote:

730 "Nevertheless a question may indeed be raised whether

the prosecution may lay as an overt act a step taken in execution of the traitorous design, innocent in itself and getting its treasonable character only from some covert or undeclared intent. It is true that in prosecutions for conspiracy under our Federal statute it is well settled that any step in performance of the conspiracy is enough, though it is innocent except for its relation to the agreement.

"I doubt very much" Judge Hand continues, "whether that rule has any application to the case of treason where the requirement affecting the character of the pleading and proof rather accorded a season of repentance before the crime should be complete. Lord Reading, in his charge in Casement's case, uses language which accords with my understanding: overt acts are such acts as manifest a criminal intention and tend toward the accomplishment of the criminal object. They are acts by which the purpose is manifested and means by which it is intended to be fulfilled."

"Therefore I have the gravest doubt of the sufficiency of the first and second overt acts of the first count, and of those in the second count which consist of acts that do not openly manifest any treason. Their traitorous character depends upon covert design, and as such it is difficult for me to see how they can conform to the requirement."

That is the end of the quotation and the end of my first ground.

As a second ground for the motion for the direction of a verdict in favor of the defendant, I urge the following with respect to the separate overt acts set forth in the indictment: as to the first and second overt acts, the alleged conferences with Werner Thiel and Kerling, and with Thiel alone, that the Government has failed to prove that the defendant did "treat and counsel" with Werner Thiel and Kerling and with Werner Thiel alone. At most the Government has shown that the defendant talked with Thiel and Kerling and with Thiel alone. No evidence has been offered on behalf of the Government of the subject matter of the conversations between those parties. Under the circumstances, even assuming that the first and second overt acts in their present form manifest treason, there has been a failure to prove part of the essential allegations thereof.

As to the third overt act which alleges that the defendant carried into his residence and there possessed and concealed for safekeeping a money belt received from Werner Thiel, I urge that there is no sufficient proof by two witnesses that he did carry a money belt into his residence; nor is there testimony by two witnesses that he there concealed for safekeeping such money belt.

As to the fourth overt act, which alleges that the defendant carried into his residence, and there possessed, and concealed, the sum of \$160 received from Werner Thiel, it is urged that there is no sufficient proof by the testimony of two witnesses of the act of the defendant in carrying said money into his residence. Nor is there sufficient proof by two witnesses that he there concealed for safekeeping such sum of money.

As to the fifth overt act, the writing of a letter to Norma Köpp, it is urged that there is no proof by two witnesses of the writing of said letter.

As to the sixth overt act which alleges that the defendant went from his residence to the Corn Exchange Bank on East 86th Street, carrying a large sum of money for the purpose of placing said money in a safe-deposit box and holding it there for safekeeping, it is urged that there is no proof by two witnesses of any fact other than that the defendant walked from his home to the Corn Exchange Bank on the day in question. There is no proof by two witnesses that he was then and there carrying a large sum of money for the purpose of placing said money in a safe-deposit box and holding it there for safekeeping.

As to the seventh overt act, that the defendant placed the
733 sum of \$3,500 in a safe-deposit box in the Corn Exchange Bank, and did then and there possess and conceal the same for safekeeping. I urge again that there is no proof by two witnesses as required by the Constitution, and the terms of the statute, of the allegation that he placed the sum of \$3,500 in said safe-deposit box and that he did there possess and conceal the same for safekeeping.

As to the eighth overt act, the alleged delivery of a note to Werner Thiel at the Commodore Hotel, on June 27, 1942, it is urged that the Government has failed to produce two direct witnesses to the whole overt act; namely, the leaving of the note at said Commodore Hotel.

With respect to the ninth overt act, that the witness Norma Köpp on June 27, 1942, accompanied him from his residence to Thompson's cafeteria in the City of New York for the purpose of complying with instructions from Werner Thiel, I urge that the Government has failed to produce two direct witnesses to the whole overt act.

I make the same contention with respect to the allegations of the tenth overt act, the alleged false statement to the agents of the Federal Bureau of Investigation, namely, that again there has been a failure to produce two direct witnesses to the whole overt act.

And I need not add, in conclusion, as I am sure Your Honor

734 is well aware of the fact, that statements by the defendant cannot under the constitutional definition and the statute supply the proof. No statement by any defendant may do that. That is the rule in treason cases. It must be direct evidence by the prosecution of the overt acts by two witnesses. We say to Your Honor that the Government has not supported that; that as to not one single item of the overt acts alleged has there been compliance with the rule of the two direct witnesses to the alleged overt acts.

Denial of motion for directed verdict

The COURT. Mr. Medina, your motion for the direction of a verdict in favor of the defendant is denied.

Mr. MEDINA. May I note an exception.

The COURT. Oh, certainly. There are certain overt acts charged in the indictment which should be dismissed because of failure to substantiate them by two witnesses.

Mr. CORREA. On the matter of the overt acts, if Your Honor please, I did not interrupt counsel because he seemed to have his argument prepared, but I think I can simplify it somewhat.

The COURT. I think so.

Mr. CORREA. Because the Government's feeling is, and I should state first as to counsel's last statement as to the overt acts not being proved by statements of the defendant, especially a statement of the defendant in court on the witness stand, that is not at all clear in the cases. As far as I know, there is only one case on that, in the Philippines, and I don't think it is very good authority. But our position is, inasmuch as we have to prove only one overt act, and have, in our view, established beyond peradventure of a doubt, in a legally sufficient manner, at least three of them, that we are willing to go to the jury on those three, resolving any possible question concerning the others by asking Your Honor not to submit the other overt acts to the jury as overt acts.

Now, the three to which I refer are the first, the second, and the tenth, all three of which have, of course, been proved by the required direct testimony of two witnesses.

I do not intend to argue either of them extensively, because I do not think it is necessary.

I might point out to Your Honor with respect to the first and second overt acts, and the objection which is made, that those are acts that, in fact, what is charged in each of those acts is treating with or associating with and counseling with an enemy, and if we think of the defendant as meeting with Thiel or Thiel and Kerling in the uniforms of the Germany army, as fugitive soldiers, within our lines, it would be perfectly clear that the act was one

736 of manifest treason. Now here, there were none the less German soldiers because they were out of uniform, and the only element that their being in uniform adds to the one act is knowledge on the part of the defendant, and that we have established in this case independently by good and sufficient proof.

So we submit, if Your Honor please, that the first, second, and tenth acts are beyond question as to their legal sufficiency or the legal sufficiency of the proof offered in support of them. But as to the others, while we do not concede, naturally, that they are legally insufficient or insufficiently proved, to avoid any question we are willing to have them withdrawn from the consideration of the jury.

Withdrawal of certain overt acts

Mr. MEDINA. Do I understand definitely that the others except one, two, and ten are now and have been withdrawn?

Mr. CORREA. As overt acts; yes, sir.

Motion to overt acts one, two, and ten

Mr. MEDINA. I now as to one, two and ten, specifically make separate motions addressed to each of them so that I may protect my record, Your Honor.

The COURT. Yes. The overt act number one relates to the meeting in the Twin Oaks Inn. Number two relates to the meeting in the Twin Oaks Inn and Thompson's, 83rd Street, and 737 overt act number ten relates to the false statements.

Mr. MEDINA. Yes. I not only make the motion as to each of them separately and severally so that I may get Your Honor's ruling, but as to each one of them, and take my exception.

The COURT. Now as the record stands, the Government has withdrawn all except overt acts 1, 2, and 10.

Denial of motion as to over acts one, two, and ten

Mr. MEDINA. Yes, sir. Does Your Honor deny my motion as to one, two, and ten separately?

The COURT. Yes; Mr. Medina. I take it that the rule requiring two witnesses has been complied with there.

Mr. MEDINA. May I respectfully note an exception to the denial of each of my several motions addressed separately to those three overt acts?

The COURT. Yes, sir.

Mr. MEDINA. Thank you. I am ready to sum up at Your Honor's pleasure.

The COURT. We will take a ten-minute recess.

(Short recess.)

(The jury returned to the jury box.)

Synnation for defendant

Mr. MEDINA. May it please Your Honor, Mr. Foreman and Gentlemen of the Jury: I should like, before I start here today, to express my thanks to Judge Goddard for the many courtesies that he has extended to us during this trial, and as well to pay my respects to Mr. Correa and Mr. Burke and Mr. Goodkind and Mr. Willis, and the FBI men who have helped a great deal.

I may say as to Mr. Correa, that I appreciate his fairness and his courtesy here. I have a very high opinion of him for some reasons that he knows that have nothing to do with this case. It is a pleasure to me, as I finish up here, to pay my respects to him, which I most sincerely and genuinely mean, and I want also to thank my colleagues, Mr. Minton and Mr. Jordan, who have borne far more of the burden here than I think you gentlemen may be inclined to realize.

I have a very definite notion of how I am going to sum up here today, and I want to tell you about it to begin with. I have got it carefully mapped out here, and I am going to try to be quiet about it and to take my time and to cover everything there. I did not finish working this out until about half past three o'clock this morning and in doing this I want to explain the theory that I am going on.

739 Now in the first place I want to mention certain general matters that have a very considerable bearing. And then I am going to use what I call the analogy of the telescopic focus. In other words we will look first at the broad view. You know sometimes if you have one of these little scenic kodaks and you are taking pictures and you take a view a little distant you get a wider angle and you see certain broad outlines; and then if you take what you call a close-up the focus becomes clearer and finally almost microscopic.

Now that is the theory that I am going on here. I am going to give you those broad background outlines, and then I am going to get that focus closer and closer to the most vital parts of the case. And I tell you gentlemen with all the sincerity I can command that I intend to discuss every single part of this case. If I omit any detail it will be by sheer inadvertence. I mention that because Mr. Correa comes after me. It is easy for a lawyer who sums up first to forget some little thing, and then the man who comes last says, "Oh, he didn't mention that at all." And so, of course, that is extremely important.

I tell you gentlemen—and you know me a little better now, you have seen me here during this trial—I tell you I am
740 not consciously going to omit anything. I do not believe in trying a case by passing or evading the issues or the

points. Now if, as I go along I seem to get a little excited or to raise my voice, forgive me. I know it is better not to do that, but I have my own temperament to deal with; I cannot change myself. If I do that, just bear with me. I know it is frightfully annoying when somebody is shouting and making a big noise, and I know better. Now if I do that, say it is only a moment, and don't hold it against me or against my client. I do not mean anything by it at all.

I try to see this summation as something in which you and I are sitting down together to discuss these things. You know that every word I say I will say for the advantage and benefit of Mr. Cramer. I represent him here. I do it in the greatest sense of the word that you can imagine. I make no apologies to you gentlemen for representing him. And I say with the utmost frankness that everything I am going to say here is designed to help him. I do not want you to be fooled by any of that. And so when we talk, as I say, about these things, bear in mind I know I am giving his point of view, and I am trying to do it as well as I can.

Now as to these general things I wonder how many of you gentlemen remember when you were in public school, as I was, and they had the salute to the flag and those words burned themselves into your memory so you cannot ever forget them—the last words, which are “With liberty and justice for all.” I never forget the days I was in school as a boy. I suppose those things form our character very largely. “Justice for all.” Now that is something that we Americans take very seriously, gentlemen. It does not mean one kind of justice for the rich and one kind of justice for the poor; one kind of justice for people who were born here and another kind of justice for people who were born in Germany or in Italy or somewhere else. It means justice for all, and there never was in the world a more sacred thing, a more sacred thing than justice, gentlemen.

I tried here, as I have done my little bit in making the wheels of the administration of justice go around, to do it with a proper regard for my duty to my country and my duty to the Court and my duty to my client. It is one of the things we are supposed to do, and I want you gentlemen to start here realizing that when we say “Justice for all” we mean it. Don't have any predilection against this man because he was born in Germany. We just don't do things that way here in this country, and it does not matter how they do those things anywhere else.

Of course as part of our democratic process here I think a fundamental thought is to make sure that no innocent man is ever convicted. That is why we have our presumption of innocence. That is why we have our rule, and such an

important rule, that you cannot find a verdict of guilty when there remains in the mind of a single member of the jury a reasonable doubt on any material fact. It is because here in our country the thought is that it is an abhorrent thing that an innocent man should be convicted. Now in Europe, on the Continent, it is different. There they think of the State first, they think of the opposite presumption; they think of the opposite approach. They say, Well—if once in a while an innocent man goes down—well, let him go, it is better for the public welfare as a whole. Now, we don't do that, we never have done it; we are not going to do it now, gentlemen, because we cannot and still maintain the principles that we have got here.

There is one thing that I mentioned in the beginning, and you remember these are those general observations that I told you I was going to make first. You remember how I said when I was opening to the jury that I was worried because we did not have anybody on the jury from Cramer's status in life. There is not any mechanic there among you, there is not any man who was

brought up in the kind of life that he has had. I am sorry
743 about that. I would have wanted somebody to be there who could speak for him. Now I say that makes it all the more important, gentlemen, as I told you in the beginning, that you should as you deliberate take that into consideration. Realize that it is going to be hard for you to understand that man. He is different; he has had a different life, different occupations, different opportunities. And so you must be careful, you must be very careful, to try your level best to understand him.

Now you may have wondered why it was I wanted to have all men on the jury. Why was I so careful to try to get men that had either been born here in New York or brought up here in New York and been here a long time? Why, it is no secret, gentlemen. I want people who will understand me. I want men that I can talk to with some confidence, who as I interpret this man will know what I mean. I know it is not possible for you as you sat there listening to him the last few days to get his point of view. Oh, how I wish it were, but it is not. But you can do your best, and at least I think you are going to understand me. And, as I said, I make no bones about that, I make no secret of why I wanted people like you on this jury, and I am so glad we have you, men of intelligence, men of experience, men who have been around here and look at things much as I do.

744 Now what is this crime of treason? It has been said in the beginning that it is the worst crime known to our jurisprudence here. And it is. It is the foulest crime, gentlemen, that can be committed. It is not just the worst by some theoretical placing at the top of the list. It is the worst because

from start to finish, from top to bottom, it is the foulest crime that man can commit. Don't make any mistake about that. And that is why it is that we have had the multitude of injustices in treason cases in past ages. And don't forget that, there has been more injustice in the history of the world in treason trials than ever in any other. And that is why when our country was formed you find the only crime that is defined in the Constitution is the crime of treason, with this rule about the two witnesses and the other things that are in there. And in the statutes of the United States peculiar and special safeguards. Why? Because everybody who participated in that Constitutional convention knew that there lay the danger in times of crisis, in times of emotion, in times of war, when everybody was naturally excited. That is when the injustice would come. And in our country every safeguard that is reasonable has been placed so as to eliminate in so far as is humanly possible those injustices. That is why those provisions are there. And what has been the result? What

745 has been the result, to the great glory and satisfaction of our country? There have been many acquittals, many verdicts of not guilty in treason cases, whether you go back to the trial of Burr or whether you take trials during the Civil War or during the Great War. That is the test. That is the record that we have had here. It means that just because you are at war, just because there is natural public clamor and emotion, that does not mean that a jury sitting in the trial of a treason case in the United States of America are going to be guided by anything but the evidence. And so are you. And I say to you gentlemen, as I said in the beginning, I am not going to make any appeal to your emotions or to your sympathy. I told you I would not and I have not during this entire trial. But what I do say and what I do say with all the power I have got is that this man has rights; he demands those rights, he demands them of you as of right.

One American citizen to another. And those rights I am going to try to show you can only be carried out and afforded to him by a verdict in his favor here in this case.

I told you in the beginning, and I tell you now, there is but one issue in this case and that is the intent. There is not any doubt that this man did the things that they accuse him of doing.

We never denied it to you in the beginning, we don't deny it

746 to you now. And remember as I go along in this summation that every word I say—and indeed I think you will bear me out that everything I have done during this whole trial—is direct toward one objective—to convince you that this man Cramer did not have any traitorous intent. That is all I am going to be talking about here, gentlemen. I may seem to be digressing, but everything I say will come back to that.

Now I told you that I would have first a wide focus of background. Let me take that up separately. The first thing I have here is Cramer's standards of right and wrong. Nobody can deny that when you are dealing with a man's intent to commit a crime, and particularly so great a crime as this, his standards of right and wrong play a part. Perhaps not so great a part as some other things, but they are in the picture, aren't they?

Now what does the evidence show us about that? Well, first there is his religion. And I want to have you men realize that if Cramer lied in any particular on any point, have you any doubt that the FBI, with all the power of the government, would not have discovered that lie? If, for example, when he said that as an American citizen he voted every election day since he was naturalized as a citizen, do you suppose he could have got
747 away with that if the fact were otherwise? Don't you gentlemen know perfectly well that every detail that he testified to would naturally and immediately be checked?

I say his testimony was that he was brought up in the Catholic religion as a child, and that he practised that religion through the years, and that he does today. Now I don't say that because he is a Catholic. If he were an Episcopalian, as I am, it would be the same. I don't emphasize the denomination. I say the man has had religious training and that he has adhered to that. Not just as a boy, but over the years. It adds a little, doesn't it? Perhaps not much, but surely you cannot disregard that.

Now next, he has an utterly unblemished record. In all these years since 1925 that he has been here in the United States he has never even been arrested, he has never been accused of any crime, as far as this record shows. He has never done anything wrong. Now the man is no child. He is now 42 years of age. Can a man reach that age and be absolutely devoid of any wrongdoing without that being a circumstance that you gentlemen should consider? Am I fair about it? Is it reasonable when I ask you to take it into consideration?

What is the third thing in there? All of these employments that he was in. I know just how carefully you
748 watched him when he testified as to those. But he was never discharged once for cause. And, of what a pitiful thing it was, when you come to think of him going from one job to another and hardly ever out of employment, taking any kind of job that came along, and dozens and dozens of them. And over all those years never discharged for cause, never insolent, never incompetent, never doing anything that was thought by any of his employers sufficient to dismiss him. Now, gentlemen, as I said, is that a little something in his favor, or am I wrong about it? I am talking now about his standards of right and wrong.

A man cannot go through a whole long life and then do something where his intent alone is at issue and then have men in a jury box disregard entirely the whole first part of his life. You cannot do that. And it has a legitimate theory. It has something to do with it. It is not conclusive, perhaps it is slight, but it is there.

Now I come to my second part of this broad focus. I call this the personal life of Cramer; what kind of a man he was and what he did. First as to his work. I am not going over all of those different employments. You gentlemen, as I said, noticed it. I noticed how you were watching him very closely when he testified to that. He did about every kind of honest work a man could do—every kind he could do. And then what was the cul-

749 mination of it? I mention this because, of course, it is going to be contended here that he is frightfully smart; and oh, he is just the most cunning, smart fellow you ever heard of. Well, what was the result of all these different employments, all those things he did? What was the culmination? Well, he wound up after all those years of work finally having a job that he thought was fine, getting \$45 a week over there in the Licorice Company, working down there in that boiler room. He did not look much further than that. That is the kind of thing he had been looking forward to. All these years up in his room studying those books. And let me tell you, gentlemen, I don't know how it ever occurred to you about a person's education, and we Americans don't realize how lucky we are. Here was this man. He told you what happened. He went to what was the equivalent of grammar school, and then they put him off in a forestry school, and he got out of that at 17. Just think of the difference when you come to what we get here, the kind of education that develops us, broadens us out, teaches us something. He did not get anything like that. He has not had the experience or anything that would develop the judgment that you gentlemen and I have.

You know, I have had a lot of experience in the courts. 750 It is hard for you gentlemen to realize it. I am just as much at home here, perhaps more so, than I am when I am up there sitting in my apartment reading a book. It is my life; it is the kind of thing I do. And I have seen a lot of tragic things, and as I do I think of myself and I think of the chances I had. I think of the luck that I have had, and when I see some man in trouble I often say to myself, "But for the grace of God, there would be Harold Medina today." I don't fool myself, gentlemen, that is the truth, and I do not doubt that you thought the same way. We cannot change people's background.

And so with Cramer. He had all these jobs, he had this partial education, and he came here and he tried so hard to improve himself. And with his English. I did not actually get that little

book out that he had in his pocket. You heard him testify about it, that when they arrested him he had this pamphlet "How to Improve your English." The thing was practically worn out from his thumbing over it, studying over it, marking it and checking it. And yet his command of English is not nearly as good as he would like to have it. Of course he tried his best; he has tried to improve it a lot. He tried to improve himself all that he could, not by taking courses as you and I would do. We know where to do that; we have the money to do that. What did Cramer do?

751 He was there in his room by himself night after night. You heard what he said about taking an examination for stationary engineer. He got the certificate out in Indiana, and then when he got here to New York he had to do it all over again because they would not recognize the certificate that he got out there. These officials don't think always in terms of human material. It did not matter to the board here what it would mean to a fellow like Cramer to take the examination over here.

So for five long years—I don't know whether you gentlemen realize what five long years would be—sitting up there in his room with his books, such books as he could get, studying and marking and pondering and trying to get to the point where he could pass that examination. And he did. He did.

Well, there we are. I suppose life has not dealt particularly kindly with Anthony Cramer. Nor has life dealt very harshly with him. He is just like thousands and thousands of other people, gentlemen. Particularly those who come here from other countries. Just exactly like thousands of others.

Now we will come to this question about his being so smart. Well, as I understand it there are two kinds of smartness. A man can have a natural intelligence, and you find those persons are good students and they are good businessmen and they 752 get along. Then there is another kind that I call animal cunning. Some people have not got the intelligence that I first spoke of, but they have a kind of animal cunning, they have a kind of shrewdness.

I say to you gentlemen, is there anything that you can find in Anthony Cramer's life to show that he has either one or the other of those? I know it is going to be contended here that as he was on the witness stand and was questioned every time he said he could not remember what was in the statement or could not recall—that is going to be explained to you that he is just slick, he knows how to do that, he is so smart, he is just two jumps ahead of the others. If you think this man Cramer can be two jumps or any kind of a jump ahead of a man like Mr. Correa, I just don't see how you can think it. Look at his life, what he has done and what he has been. If he was so smart and cunning he would

have stolen or have done some wrong, gotten into some kind of trouble. If he was so intelligent he would be like some of the people that he mentioned in his letters, who had the big farms and the factories, that so and so is on his way to become a millionaire, a big farmer. But Cramer did not have anything. If he is so smart why is that?

Gentlemen, I do not say he is a fool. I do not say he is stupid.

I do not say any such thing as that. What I really mean
753 to say is this: The man has not had the education, he has not had the experience that would give him the kind of thing you and I call judgment. He just has not got that, has not had the chance to get it. I do not say he is a fool and knows nothing or hasn't got any sense. Not at all. I say he has not had the background, the education and experience that would give him any judgment. How could anybody like you gentlemen or myself have anybody, a friend of ours or not, come to us with a money belt with a lot of money in it and we take it around and put it in the safe deposit box? We have too much judgment, we have too much sense, and we have had too much experience; we would know there was something wrong about it and that it would get us into some kind of trouble. But I say this man is different. He has not had that experience. That is why I have been emphasizing so that you try to understand him. You are not mechanics. You have not led his life. Do try to understand that, so you may see it would (not be fair to test him by your own standards or by my standards. It would not be fair, gentlemen; you cannot do it. You cannot do that. You have got to judge him by himself.

Another thing, and I am still on Cramer as a man, and that is the second part of my broad focus here. You will see I am going to keep my eye on the ball in my summation, just as I have
754 through this whole trial. I have not asked an irrelevant question, gentlemen, nor have I objected to anything that was not matter that I thought raised some proper question of law. I do not do things that way, and I won't as I sum up to you here.

Now you remember the statement by Cramer. He said he had always been a pacifist. I will take that letter that led to the question that Mr. Correa was asking him. Now this is the one that he wrote. It is Exhibit 63, that he wrote on April 21, 1942, after we were at war with Germany, to this man Thielmann, who was the fellow that had gyped him in the delicatessen store deal that he explained to you. He wrote this letter to Thielmann chiefly to get some money from Thielmann. There is not any doubt that Thielmann owed him the money.

755 There is not any doubt that Thielmann owed him that money, and you remember he testified that when he went to the Corn Exchange Bank that morning he deposited money there in his account for \$10 that he had received from Thielmann. This is the same Thielmann out in Chicago.

Now the first part of this letter, the general point about it, as I read it, and I am going to read you the exact words, and not characterize it, but as I read it Cramer is in effect saying "My goodness, think of all of the people of our age getting put in the American Army. Here we are old men, as it were, and think of the chances that we are going to get drafted and go in the Army and have all the hardships and all the trouble that would come from that." That is what I think that meant to say to Thielmann. I don't really know why he should not.

Now let me read you the translation, and before I do it let me get the matter of these translations out of the way. Mr. Correa was trying awfully hard to get points of issue between him and Cramer; to get Cramer to deny something so that he could say, "ah, Cramer is doing some more lying," and he fooled around with the translations to try to get Cramer to say some of the translation was wrong. There were two or three little places where he almost succeeded, and then when the thing was analyzed, as you gentlemen remember, it all came down to the

756 same thing; the difference was merely one of phraseology; it was not a matter of any importance at all, and you know how from the very beginning of this case I have admitted that the translations were correct, and I said to you not only I think in the opening, but certainly later in the trial, and I did it on purpose, that I had taken up these translations with Cramer and that he had told me they were substantially correct. And he did. There is not any dispute about those translations. Don't be fooled by that. There is nothing in that at all. Of course you can take any kind of foreign language and translate the words in isolated instances a little bit differently one way or another. But there is no point about that. I have never taken the position here, and I don't think that Cramer meant at any time on the witness stand to really claim, that these translations were wrong translations. He had one or two little interpretations that were slightly different, and when you followed the examination along, they just did not wind up anywhere.

Now here is what he said: "It has been a long time since I have heard anything from you and I am curious to know how matters are really going along with you and what good things you are doing. Are you still involved in this new draft story or are you past the age for military service? It is not at all out of the question that one of us will have to

become a soldier again. Personally I should not care at all to be misused by the American Army as a world conqueror. Who would have thought it at all possible a year ago that we of our mature age could again be made subject to conscription, and after one has spent almost half a lifetime here in the States. Yes, that is the way that the world changes, and mankind seems to get crazier and crazier."

Now what is there disloyal about that? What is there wrong about it? When you take those paragraphs as a whole isn't it plain that what Cramer is saying is that it looks as though maybe he would be drafted and put in the America Army, and he did not like the idea at all, and he testified here that he had been a pacifist all his life.

You looked at him. Did he look like a military-minded person to you? When he says that he did not like war and he did not like the idea of going into the army at his age, did it seem sincere and sensible? If he says he was a pacifist, why not, gentlemen? Why not, gentlemen? What has there been in the life of Anthony Cramer to make him think that war was a glorious adventure for him? What is there in his life that would lead

him to be other than a pacifist? I say it with all frankness. Why should not a man with his background, a man as he is, have written exactly that, and without the slightest disloyalty to the United States in doing it? Do you gentlemen suppose that if you look into the minds of thousands and thousands of Americans, good Americans, patriotic Americans, who were 43 and 44 years old and who were in the draft, if you looked into their minds, don't you think there would be some of them who would be thinking just about the way Cramer says he thought? I don't think anyone need be ashamed of that. Of course no one knows our secret thoughts. Those things we keep to ourselves. We know them. We must judge other people by those things.

Now such, I say, was Cramer; a humble man; a humble man; a man with a life that has not got a single blemish in it; nothing wrong; no accomplishment; never did anything; and he never hurt anybody.

So much for that second part of that focus. The third one that I have here, and I think you gentlemen must realize that these things as I have arranged them are singularly relevant and proper to the issue—the third one I have here has to do with his veracity. Did he tell the truth? Did you believe him?

I am not going to do a lot of argument on that because your gentlemen have been watching him here; you have been listening to him. You are going to, when you get out there

in your jury room, talk about those things. You are going to exchange views as to whether this that, he said or that that he said was true; was he telling the truth; was he trying to evade? No argument by me can have much to do with that. You gentlemen will decide that yourselves by an exchange of views, as you should.

But there are some things that I think I ought to talk about. Now he undoubtedly lied first when he went down there to the FBI and told them that this fellow's name was Bill Thomas; told them that he had been out there on the West Coast and he had not been out of the country. You remember all of that. And Cramer says that he did that to protect Thiel. Thiel was his friend. Now, how can any of you gentlemen doubt that Thiel was his friend? I don't believe there is a man in this jury box that has the slightest doubt about that. So when he said that he told those lies in the beginning in order to protect Thiel, isn't it reasonable, isn't it probable that he should do that, and he gave as the reason that he thought that Thiel might be mixed up in this draft business, not some general draft business, but because he had failed to register for the draft. And as I said here this morning, whatever he may have put in that statement there, there is no dispute that that evening, later on, he explained to Mr. Willis, whether it got in the statement or not is not the question. Mr. Willis told you gentlemen that that evening later on Cramer had told him that yes, he had lied at first and that he lied because he did it to protect Thiel. Now that is what he said. I don't know. It sounds reasonable to me, but it is for you to decide. You are going to say whether you think that sounds reasonable or not.

You remember what happened after that. He talked for a while telling him the things that were not true, and then Mr. Ostholtzoff said to him, he said "Cramer, I don't think you realize what a jam you are in." And I don't think he did. I don't think it ever entered his mind, and when Ostholtzoff mentioned that to him he did what I think any man would do, who had been trying to protect his friend, he said to himself, "Well, here I guess I better not do this." So he said "Let me talk to Mr. Ostholtzoff alone." And the result of that was the rest of them went out and Mr. Ostholtzoff remained, and then he explained to him that really this fellow, Bill Thomas, was Werner Thiel, and that he had not been out on the West Coast at all, but that he had gone back to Germany, and all that. And you remember how Cramer said that Ostholtzoff promised him that he would not mention
761 the fact that he had lied at first.

Ostholtzoff was not recalled in rebuttal to deny that he made that promise. I don't suppose you can blame him an awful

lot, but it is a little sour note, isn't it? He promised him. They do not deny that they promised him that if he changed his story and told them that really it was Thiel and really he had gone back to Germany, that they would not mention it. But they did mention it.

Now Cramer, of course, thought they were going to keep the promise. He thought "Well, after all, I did lie, but now I can tell them what the fact is, and what I said at first will be forgotten; it will be lost in the shuffle." How many men, gentlemen of the jury, do you suppose have been questioned by the police and questioned by the FBI who did exactly that same thing? How many thousands of people do you suppose when they first come, do not realize? It may be some of them want to protect a friend; how often it must happen that they tell things at first that really are not so and then, when they begin to realize that after all it is more serious than they suspected and they may be involved in some way themselves, they say "All right, I will come through and tell you." All right. There it is. It is for you gentlemen to decide.

762 There is another thing that has been mentioned here and a great deal made of it this morning and yesterday, little things that Cramer said when he was on the direct examination, and when I say little things, they may be more or less important as you consider them separately. I do not mean to try to pooh-pooh them or get them out of the way, but there were a number of things, such as that matter of the remark that he said on his direct examination: that when he talked with Thiel there and they were talking about this draft board business and his not registering, and his having this name of William Thomas, that he produced this draft card with "William Thomas" on it.

Now there were several of those things, gentlemen, that he did not mention when the men of the FBI were questioning him, and that he did mention when he testified here today.

Let me put this thought in your minds: as I said, I have been through a great many trials; and there is one thing I have never known to fail and that is a party, an interested person, the kind of person you would say from the very beginning would think the whole thing out and drag out of his recollection every shred of memory that was there, and yet every case I have ever been in, as the man sits there during the trial, or the woman sits there during the trial, and their mind works, their recollection is refreshed. More things honestly do come back to them.

763 I remember a little phrase in De Quincey, that English opium eater book of his is one of my favorites, it is such a light and such a profound book, but there is one little thing he had in there where

he said that things that happen fall upon our memory as softly as light, and so that memory is all that accumulation of impressions made as softly as light; every detail, everything that ever happened to us, every word we ever heard, every impression, every sunset we ever saw, gentlemen, everything that happened to us, is there, every detail. Make no mistake. But when it comes to bringing it back, no one knows what it is that will stimulate the memory as to this; that, or as to the other. Sometimes you remember more, sometimes less. Now you gentlemen know that is so. You know that is so. The question is, was this man Cramer putting on an act, there? Was he faking? Was he making out this?

When I come around a little later on to the closer focus, I think you are going to see that there was no deliberate concealment by this man of anything. No one in such a predicament as this man stands today ever told the Government so much; ever helped 764 so much; ever identified so much and so completely. No, gentlemen, when he remembered a little more here and a little more there, it is fair for me to argue that he really did, and that his recollection was, as he said, refreshed. He thought more. He could not always express himself as he wanted to.

I thought, as I sat there listening to Mr. Correa when he was questioning him, "Was this in there?" "Did you say this?" "Did you add this?" there were certain limitations of expression that made it hard for him. But you gentlemen took all those things into consideration. So I leave that. I really think when you come to go into the jury room that you are going to say that you thought Cramer told the truth. Surely there is much ground for my urging you to do that.

Now the fourth thing, by way of this general background, is the background of fact and circumstance. You remember I have taken up three now. Now I am into a general background of fact or circumstance.

In the first place, you heard a lot about the spy system. You heard a lot about these saboteurs over in Germany, how they were training and got their experience, and all that. Well, there has not been a scintilla of testimony in this case, gentlemen, to connect Cramer with any of that; not one word to show 765 that he knew; not a breath of a word to show that he had any idea that Kerling and Thiel and those other men were going to that school of saboteurs over there in Germany to learn how to blow up this and learn how to blow up that. That is in the case, but it has nothing to do with your deliberations as to Cramer's intent, because there is no evidence to show that he knew; absolutely none, gentlemen.

Now, how about that box that he opened? May I have that

brown envelope and also that card from the safe deposit people [same handed to counsel].

Of course I realize that the thought might have passed through some of your minds, maybe Cramer got this safe deposit box when he got it because he thought that some day he would have occasion to put some money in for some spies. I say to you gentlemen you have no right to think that. There is no evidence to justify it at all. The proof is uncontradicted. What is it? The proof is that this man bought some stocks worth \$400 or \$500. He bought them in June 1941. You do not have to go by his word because we have the concession from Mr. Correa. You remember that, too, and here is the little stamp on this envelope from the brokerage house of Steiner, Rouse & Company, 25 Broad Street, New York, "Registered mail" addressed to Cramer, and that had those stocks in it, \$400 or \$500 worth of stocks.

766 Well, he naturally wanted a place to put those, and so he went around to the Corn Exchange Bank on July 3, 1941, which is the very day that he got those, because you will notice it says "Second notice, July 3, 1941," indicating that when they went to deliver it to him the first day, which was June 30th, he was not there, and so the actual delivery was on July 3rd, and on that same day of July 3rd you will find these cards here from the Corn Exchange Bank to show that he went around and rented the safe deposit box. It says \$5.00 on here, but he paid \$6.00 and the extra dollar was for the key or keys, and Mr. Correa has agreed and has stipulated that he bought those stocks and that later, before these events happened in June of 1942, he sold those stocks that were worth some \$400 or \$500, and the money was spent for some reasons that had nothing to do with the case. I do not say that Mr. Correa conceded for what purpose the moneys were spent, but he did concede they were bought, and bought from Steiner, Rouse & Company, and sold by Steiner, Rouse & Company, so I would not have to call these people.

Now that is how he had the safe deposit box. There is no mystery about it; there is nothing to warrant you in drawing any different inference from that.

That means, and I think it is awfully important, that this 767 case starts, as to Anthony Cramer, on June 22, 1942. There is nothing before them, and when I go over these various elements that I have been going over, I have been doing it on purpose because I want to narrow down that focus as I have been telling you.

This safe deposit box, these various things that might have happened before then, there is no evidence he knows about it.

Now, gentlemen, there is one of the most dangerous things that can happen in any trial, and that is to have the jurors say to

themselves. "Oh, well, maybe there is more than meets the naked eye; maybe this and maybe that." Now I am here to defend this man and I tell you gentlemen, and you know it to be true, that you swore when you entered this jurybox that you would decide this case on the evidence. Those were your oaths; not to decide it by speculation, not to decide it by some sort of surmise or influence, but to decide it on the evidence. You cannot do otherwise, gentlemen. It is your sworn duty and you must, and it is important.

Now, for example, because I do not believe ever in dodging anything, you have seen enough of me for that, you take this business I brought out on Cramer's direct examination about the Navy Yard; that he made an application to the Navy Yard for a job as shipwright, because he did. He thought he could earn more money than that, and he decided after all that involved woodwork and he made some change as to a flange turner, which was work he had had some experience with. He said that was in August 1941, and nothing came of it, and he never worked there and never actually went there. Now, gentlemen, if there is anything in that point the Government would have let you hear plenty about it. I don't think you have any right to sit there and speculate and think, maybe this or maybe that. The evidence is just what I tell you there, and, as I said, if there was any more to it than that the proof was readily available to the Government.

The next thing I come to, and you see how my focus is always becoming more important—I am narrowing it down for you, I am trying to use all the art and all the skill that I am capable of to bring this before you in a way that will be most forcible and at the same time most helpful—the next one I have has to do with this motive that they claim. That is also a matter of background, isn't it? They say he was disloyal to the United States. Now let me be very specific. I want to show you just what Mr. Correa claims about this, so that we will know exactly what we are talking about.

On page 217 he defined it. He said that they were going to claim that the motive consisted of a deep-seated feeling of greater allegiance to Germany in this war than to the United States, and, indeed, he adds, a strong antipathy to the position of the United States in this war.

Now I say that is not so. I say no such motive was established at all, and the evidence that I am now about to review has a bearing upon that specific thing, and of course we are still talking intent, and we are still dealing with the operation of Cramer's mind. Very well.

The first in chronological order I suppose is Cramer's connection with the Friends of New Germany out there in Hammond, Indiana. He said, and there is no evidence to the contrary, and you are not permitted to supply any evidence by imagination, don't forget that, and that I demand of you as his right on your oaths, and if I say that again and again, it is because it is so important that I insist upon it—the proof is that in 1934 and 1935, for one year, Cramer and Thiel were both members of that Friends of New Germany out there in Hammond. Factory workers were members of it; it was a recreational sort of thing. He had to be around with some people that he could talk with. After all, he was a stranger to Hammond, Indiana, as indeed he was a stranger in most places that he went, and so he says he joined that for that reason.

You remember in this little statement of his that he added, he says, that Mr. Willis asked him to add this—I don't think it makes a bit of difference whether Mr. Willis asked him to add it or whether he thought of adding it himself, but he did add, in his own handwriting, just a little sentence that I think I can find—yes, here it is; he says, "I belonged to the Friends of New Germany 1934 to 1935, leaving because I did not like their marching and radical practices." Then you remember when he was being examined by Mr. Correa, he said something about some swindle that had been out there. And Mr. Correa said "Didn't you leave these Friends of New Germany because of the swindle instead of this other part?" "No," he said, "I think I left it for the reason that I said." And Mr. Correa said, "But you did not mention anything about that swindle in this statement here." "Well," he said, "that is right, I did not. I did not think of it." Now is there anything in that as an indication of a lack of veracity? What is there about that that has any other significance than I indicated a moment ago, that a man thinks of more things naturally? He admitted here that he was a member of those Friends of New Germany in 1934 and 1935, and that he left, and he said he left because he did not like that marching and radical practices. All right. Does that show any disloyalty? Are you gentlemen incapable of projecting your minds back to a time when nobody was thinking of any war? Is there any pretense that in 1934 and 1935 you and I and people around this country thought that war was imminent and war was coming, and matters of loyalty and all that were bruited around as they have been since? I tell you gentlemen if you are fair to yourselves you must admit that is not so. And the fact is undisputed that in the interval Cramer was not a member of any of these Bunds or Nazi organizations at all.

Isn't that important? Isn't that a matter of significance? Suppose it be argued by Mr. Correa that of course, Cramer was too slick; he would not be a member of any of the Bunds because he would know that it was smarter to stay in the background and be aside. Do you believe any such thing as that? Do you believe that Cramer is the master spy, the man in the background pressing the buttons and pulling the strings? Isn't that ridiculous? Can there be the slightest basis for any such claim as that? Gentlemen, I do not see it in the evidence. I say the fair and the reasonable and the probable thing is that if he left that Friends of New Germany back there in 1935 and since that time was not a member of any of those Bunds or German organizations, I say to you 771-A that is in his favor. That is something you must consider as a circumstance favorable to him. I do not see how people can differ about that. Anyway, that is the fact about the matter of the Friends of New Germany.

772 The next thing I want to urge is that if he had been disloyal, as Mr. Correa claims, it is perfectly evident that he is a man given to talk. In all the case I ever had in my life I never had a man that talked so much with the police or with the detectives or the FBI as Cramer—never. He certainly is not a man given to silence and to withholding things. And I say to you gentlemen if he was so disloyal why is it the government has not produced here people who heard him say disloyal things? Surely not because they had no power of investigation and search. Why, the job they did on these saboteurs is one of the most marvelous pieces of detective work that our country has ever seen, and something that we are foreverlastingly grateful for. Those men know their jobs, and if Cramer had made disloyal utterances, if he had said things against the United States, why you would have seen a parade of witnesses in here testifying to it. But they did not come, they don't exist. All they produced—and I objected to it, and I tell you gentlemen and say now it has no significance—all they produced was the man who went around, this man Powers, selling some stamps and bonds, and he would not buy any. And as Powers says, he knocked again on the door, and he opened it and

Cramer shut the door. The expression "slamming the 773 door" did not come from Powers, it came from Cramer himself when he was testifying on the witness stand. Of course you can characterize about that. He was not chiseling or putting it down to help himself.

I say to you gentlemen is it right as evidence of disloyalty that it be shown when a man comes around to sell war bonds or war stamps and you do not buy them that is evidence of disloyalty? Do you gentlemen realize the number of reasons a person might have for not buying them? for not buying more? There is no evidence

in this case that Cramer had not bought some war bonds or war stamps in accordance with his means before that man came there. There is nothing but the bare statement that the man asked him and he said he would not buy even a 10 cent stamp. I say is that going to be evidence of disloyalty here? Have we come to that? Have you gentlemen come to the belief that man because of that is disloyal? Think of it. Don't let yourself be carried along by emotion. You remember how I told you in the beginning of this case and how I have stuck to it ever since that we do not want any emotion, we do not want sentiment; we want our rights, and we want you to decide the case on the evidence. I do not care what may be true in other civil or criminal cases where people appeal to the emotions and prejudices of the jury. That is not what we want to do. We want to appeal to your sense of justice, to your sense of right, to your sense of what the evidence shows. That is the kind of talk I think it is proper to be put forth in any court of justice. Now let me pass on. We are still talking motive and the claim of disloyalty. Let me take out those letters that he wrote, one to Thiel and one to his family. It was claimed that they showed some kind of disloyalty.

Now I know I am taking a long time, but I know you gentlemen don't mind my doing it, and I am going to do my job right up to the end and I am not going to leave out a thing. If it takes a little time it is worth it.

These two letters here, one of them is to Thiel and one of them is to his family. I am not going to read them all, because you have had them read a couple of times. I am going to comment on them, and I am not going to duck anything that is in there at all. But I want to make an observation or two. You notice that these are both addressed to Germany. You notice they both went through what has been said to be the British censor. They never were delivered to Germany because they came back. It says "Returned to Sender—Service Suspended." So they never got to Germany and when they came back they went to a little metal box that Cramer had, and the man who had the mail boxes communicated to the FBI and the FBI went up and got the letters and they brought them down and in their presence Cramer opened the letters and gave them to the FBI men. These are the letters.

Now, preliminarily, let me ask you a rhetorical question or two. I think we all have a pretty good idea about what goes on in Germany. You do not have to have much happen over there for somebody to get yanked into a concentration camp, and you don't need very much there to have a lot worse things happen to you. Isn't it perfectly obvious that Cramer must have known that if he put anything in those letters that might bring the authorities

down on his family or on his friend Thiel, that it would go badly with them? Isn't it natural that this phraseology that they speak of as unfriendly, or whatever phrase you may use—isn't it at least clear that the way Cramer would phrase these letters when he was sending them over to Germany was in such a way that when the German censor opened them they would not send a squad of soldiers around to his family or to his friend Thiel and punish them in some way? Isn't that a fair thing for you gentlemen to have in mind? I think it is. I think it is just a little circumstance.

Now we get down to the things themselves. Most of the letters have to do with personal matters, and you remember as to this one to Thiel it was in response to a postal card.

775-A The COURT. Mr. Medina, may I interrupt you a minute.

It is 1 o'clock and the grand jury are coming down at 5 minutes past.

Mr. MEDINA. Very well.

The COURT. If you have come to a good stopping point.

Mr. MEDINA. I would just as lief stop here, Your Honor; it is all right, and I will go on from here.

(Recess to 2 p. m.)

776

AFTERNOON SESSION

Mr. MEDINA. Shall I proceed, Your Honor?

The COURT. Yes, Mr. Medina.

SUMMATION FOR DEFENDANT RESUMED

Mr. MEDINA. Now I think I had got down to these two letters that Mr. Cramer had written, one to Thiel and one to his family, and I am going to read from portions of those letters, as I have them in my little book here, because I did not want to put any marks on the original letters, and it is hard when you have several pages to find just the places you want to read. But what I am reading from here is an exact copy of the translations which are in evidence. You remember that as to that one to Thiel it is in response to a long postal card from Thiel, and I emphasize the words "postal card" because a postal card comes through the mail and anybody can see it and anybody can read what is in it.

In that postal card from Thiel which thus arrived in the mail he said, "By the way, how are conditions in New York at the present time, and what are our friends doing, also those in the Middle West." When Cramer wrote this first letter I am assuming that you gentlemen will recall that a good deal of the letter refers to personal matters. I am only going to read and

777 call your attention to the facts that are in there that the Government relies on. I am not going to take your time reading the whole letter; I am going to assume that you have in mind that these parts that I pick out are in there with other parts that one would naturally find in a letter about personal things. Now I will read these things that the Government claims are bad, and I will read them all, and then I will comment on them after I get through. He says here, referring to this man Philip Mebus:

"He wanted to give me a job and guaranteed me \$100 a week, but I declined, as I don't want to dirty my fingers with war materials."

You remember that. Now over on the next page he says:

"Now a little survey from the political weather observatory over here. You will understand that I can toss you only a small crumb from this potter field, since this letter will probably go twice through enemy censorship."

Then he goes on, and you remember how he gets talking about Senator Pepper, and he says:

"The loudest shouter of all the babbling confused ducks is Senator Pepper. He has been given the name of Two-Gun Pepper. Yesterday he permitted himself the following classic quotation with reference to the diplomatic negotiations with Japan."

778 And then he quotes: "There is a white line somewhere in the Pacific, I don't know exactly where it is, neither does President Roosevelt, but as soon as Japan crosses this line we start shooting at her." So amazing and childish that one could be highly amused by it if the results were not so tragic. Look, now there are the Japanese emissaries in Washington trying to come to an understanding, they are sitting earnestly in negotiation chambers; while Two-Gun Pepper shouts insults in through the window."

You remember Mr. Correa reading and referring to that. Now he refers again to the contents of a book, and there is no proof here that those things were not in that book. So we get over to the final part of this letter; and I am trying, as I said, gentlemen, sincerely to give you the worst parts. No use fooling myself about this, of course that is the part you are interested in, and I am giving it to you. Now he goes on:

"But words are of little value. Not vocabulary but defiance, boldness, will, and sharp weapons will decide the war, and the German army and the German people are not lacking in these. We sit here in pitiable comfort when we should be in the battle."

As Nietzsche says, 'I want the man, I want the woman, the one fit for war, the other fit for bearing.'

779 Now that letter is November 25, 1941. Then there is another one dated December 3 to his family, and I want to read you

the parts of that that may be considered as establishing some motive for disloyalty here, because that is what we are talking about at the moment. Now in that letter to Cramer's family over in Germany, among other things, he says:

"But now, like Robinson Crusoe on his island, I am in America and must wait until German ships come to this shore again as messengers of peace. Well, let us hope that it will be soon."

And then he goes on and says:

"I see what a desire for annihilation with respect to Germany is sprouting and growing. Today a lost war has lost its meaning for Germany. It means today a complete extirpation of the German nation."

Now I have already mentioned to you the fact that these letters were to be received by people in Germany. His family and his friend Thiel. He naturally did not want any harm to come to them. A slight point, but one that is not to be lightly disregarded.

Now let me add to that. This was before the United States was at war. Is a man of a certain race not entitled to maintain his loyalty to his own country, America, and still have some feeling for the country where he was born and his family who live there and his friends? Is that really, gentlemen, a disloyal thing? Does that honestly establish, as Mr. Correa claims, a deep-rooted antipathy to the United States? Because in writing to his family—and it was a Christmas greeting letter that he was writing, too, and he naturally wanted to bring some word of good cheer and encouragement to them; even though he was poor and humble he would still want to do that—what is there so bad about his saying that he felt like Robinson Crusoe on his island, when he was away from his homeland so that he could not get back to visit them any more? Does that seem reason to be disloyal? I want you to think about that. I do not want to exaggerate it, I do not want to put the thing too strongly. But I say think about that.

Now let me read you the words of a great judge of this court in a treason case that came up during the last war, because it says exactly what I want to say to you gentlemen about these letters. He says:

"Prior to April 6, 1917"—and that was the day the United States declared war, at the time of the first world war—"Prior to

April 6, 1917, a man may have been pro-Ally in act or in sympathy, or he might have been pro-German in act or sympathy, and he was within his rights. However we may as individuals have differed with one view or another in connection with pro-Ally sympathy or pro-German sympathy, any man

could have engaged in any legitimate propaganda or any other legitimate act."

That was Judge Mayer who wrote this opinion.

Now, gentlemen, I tell you it is the law this man had a right to write these letters. The sentiments that are in those letters, however much you or I may disagree with him, were his right to do.

Now let me leave that, because, of course, that is important for your consideration but let me leave it and touch a slightly different thing. Do you remember the days before Pearl Harbor? I do. I think there are many, many Americans today that are ashamed of what they thought and what they said then. You take this part I read to you about Two-Gun Pepper and the insults thrown at the Japanese whose emissaries were supposed to be negotiating for peace. Do you not believe, gentlemen, that there were thousands of perfectly good American citizens at that time who thought the very self-same thing? Now be fair. Am I making this up? Is it something that is not so? Or is it

782 something that from your own experience, looking back to those times, you know to be mistakenly so. People now that thought those things and said those things wish they never had. When those Japs made that treacherous attack on Pearl Harbor on December 7th of course things were changed, and if they changed for others why is it so improbable that they have changed for Cramer, too?

Now let me say another thing. I have referred to sentiment such as he has in these letters; that doubtless many thousands of perfectly loyal American citizens said. People who were born here, people who had lived here all their lives, people who never had the slightest reason of any kind, race or otherwise, to think about anybody else who said those things. Many prominent people, many people in the halls of Congress and in the public press. Do you believe, gentlemen, that there is one law for the rich and powerful and another law for the poor and humble who may not be able to defend themselves as well or to explain as well when they are questioned? Is there such a difference? I do not think ~~any of you~~ you believes there is. And of course the law recognizes no such difference. If it was all right for some prominent man in Congress or some prominent editor or some person in the public press to come out and say those things, it was just as much the right of the humble mechanic Anthony Cramer to do the same. I say those things prove no more disloyalty, no more deep-seated feeling against the United States, than

783 the man in the moon has. Now let me go on to another thing. You remember when I moved for a mistrial here yesterday. They had asked Cramer

about the contents of a letter he had received from one of his relatives in Europe. I did not think that the Government had any right to do that. Well, the judge disagreed with me. I do not criticize that now. So Cramer went on. Not what he wrote, mind you, but what somebody else in Germany wrote to him. What that is supposed to have to do with this case it is a little hard for me to figure, but here is what he said was in the letter. They did not, as I see it, quite have the nerve to bring the letter out. They have got it, but they did not bring that out, because it is inadmissible and its admissibility would, I think, have been all too manifest. They did it by asking Cramer if he did not get a letter, and what was in it. So he said, after I had objected and tried to keep it out for the reason that I explained to you, "Yes, I got it," and the letter was from his brother, and his brother had said that his father said some of Cramer's letters had things in them which were unfriendly to the United States and he thought he better look out, he might be put on the blacklist.

Of course, gentlemen, you know the difference between the way those things look in Germany and the way those things look here. Is it so curious that Cramer should tell you, as he did, that he thought this was a free country? He thought he had a right to say these things. I proved to you by an opinion of the court that he did have the right. But he says he thought he did. This was a free country, people would say those things here. But of course in Germany it looked different to his father and it looked different to his brother, and when his brother wrote to him that he better look out, that those things might put him on the blacklist, that is because that is the way they looked from the German standpoint.

Gentlemen, does that seem reasonable, the way I am putting it to you? Does it seem that I am stretching it or exaggerating it? Because I do not want to do that and I want to meet everything, every one of these things, frankly and candidly. But I do tell you it seems to me that it might have looked and almost certainly would have looked very different from the standpoint of Cramer writing here than it did to his family, subject to all the oppression and coercion that Germans have been subject to.

Now there is another thing. I would like to have those things manifests. I do not want to take the time to go over all these, but I do want in conclusion on this issue of loyalty to mention two or three things that are matters of documentary proof. I

do not deny that when a man is fighting for his life, as Cramer is here, it is hard to get everything exactly accurate.

It is not easy even if you are a smart businessman and a successful person who has had lots of experience talking and arguing, discussing and answering questions. It is even hard

then for such a man fighting for his life to keep his poise and to understand and answer everything the way he would want to. I say you have to take that into consideration a little bit, and so I emphasize what the documents show.

Here is Cramer came over here in 1925. He came because, as he said, conditions in Germany were terrible. The food was very little, conditions were such that there was no opportunity for anybody; inflation was then going on, and he came here because he thought he could earn an honest living here. Now certainly Mr. Correa cannot claim that when that boy left Germany in 1925 he was part of any spy arrangement or any person who was then planning or scheming to do something for Germany. That is just too ridiculous, isn't it, gentlemen? So the first thing on coming over here in these sworn manifests, these documents, he said he was coming here for good, and he said he was coming here forever. He said he was coming here to be an American citizen.

Is that supposed to be a lie? Is that supposed to be something that has some mental reservation, or is that something said at a time when by no possible chance could he be stating something which was not his true intention?

So when he went back to Germany in 1936 all these ship manifests say the same thing. When he left here to go back to Germany he said he was not yet an American citizen, but he said he intended to be; that he was here for good and just going on a temporary visit, and intended to come back here to stay. When a month or so later he did come back he said in the ship's manifest the same thing, that he was coming back permanently, that he intended to stay here always, intended to be an American citizen. And you will remember that in 1928 when he went to Chicago the first time he was away from the farm and the first time he had any facilities to declare in some formal way his intention to become an American citizen according to law, he did it. You remember these naturalization papers. There he was in Chicago in 1928. Then again the first opportunity he had to get his final papers. Because certain continuous residence is required in a certain place. That is necessary. When he was out in Indiana was the first time he had that continuous residence. Then for the first time he was qualified and immediately applied and got his citizenship. Those are years ago, gentlemen. They go back there to the time when he was a much younger man than he is now. His intention, his declaration, his loyalty, as far as those papers show, was continuous and uninterrupted, and I say I think you must consider that too. And it is the last thing I am going to mention under this subdivision of my broad focus. I think it is important that every time an election day came around after he became a citizen he voted. Now, mind you,

if he had lied about that the Government would have proved it. They have been looking here for every tiny little detail that he might get wrong or get mixed up on or state wrong, and I say to you gentlemen that it would be a much better thing for our country if all of our citizens had the duty of citizenship and going to the polls in their minds every election day as much as this man who came here from Germany.

Does that look like the act of a traitor? Does that look like the act of a man with a deep-seated antipathy to the United States, as Mr. Correa has claimed here? I do not think you gentlemen will look at it that way.

All right, now so much for that broad focus, but now let me get down a little bit closer. You notice I have been bringing it down all the time to things that get more and more to the heart 788 of the case, and I am trying not to leave anything out.

Remember all the time we are talking about treasonable intent. That is all we have here, treasonable intent. That is all that this argument is addressed to.

The first of these as I have them here is: What did Cramer know of Thiel's purpose as shown by Cramer's own statements? Now that is pretty important, isn't it? Well, let me examine into that. I want to make a few preliminary statements. In the first place, you gentlemen have no more right to substitute suspicion for proof on this issue than you have on any other. And I have emphasized again and again that by your oaths you are to decide the case on the evidence, not on suspicion; not on imagination, not on something that you may think may be your pledge.

Secondly, not a single one of these FBI men heard a word that passed between Cramer and Thiel or between Cramer and Kerling. You remember how careful I was to bring that out during the Government's case. Every one of these men that took the stand was asked by me, "Did you hear what was said?" "No; I was not close enough to hear," or "I did not hear." "I saw their lips move. I saw they were conversing but I heard nothing." So that we start there and you must start there with the fact 789 that these Government men have not supplied one iota of the conversations that took place on the evening of June 22nd and June 23rd, 1942.

And now I say the acts that Cramer did were each and every one of them thoroughly consistent with innocence. His meeting Thiel, his talking there the second night; his being there with Thiel; with Kerling there, his taking the money, putting it in the Corn Exchange Bank, his letter to Norma Kopp, his letter addressed to William Thiel as at the Commodore. I say, gentlemen—and remember anything that I tell you that is not so,

I have got a man coming after me, a man of consummate skill who knows his business and will say it is wrong if it is wrong, don't forget that, and I am not forgetting it either—I say every single one of those acts is just as consistent with innocence as it is with guilt. It all depends, every one of those things, upon the knowledge that Cramer had, upon the intent. Whether they are guilty acts or whether they are innocent acts depends not upon the doing of any single one of those, but upon the intent and the knowledge that the man had. You know that is so if you faced this thing frankly, as of course you do.

Now, in substance the testimony of these FBI men is that Cramer insisted from first to last that he did not know what Thiel came to this country for. You remember how Willis testified about that. You remember how I emphasized that again and again. He did say he had surmises and suspicions, but he stuck to his ground from first to last that he did not know what that man came here for. All right, now where do these hunches and surmises and suspicions come from? They are all in the statement, and I am coming to that in a moment. But I want to show you where they came from. And, mind you, in doing this I do not criticize any of these FBI men. When they got Cramer down there that night and they said, "What did you suppose the man was here for? If you suspected that he came in a submarine why did you suspect that?" "What was he here for?" Those questions were perfectly proper, gentlemen, and I do not criticize anybody for asking them. But I want to show you how in this statement all these speculations appear. Let me do it by taking first the speculations themselves. Before I explain how they got in here let us see them, because I am going to take up each and every one of them and you will know them all. For instance here is that last paragraph, and I have now the typewritten statement he signed that Sunday morning, June 28th. He says: "I knew,"—and then it is crossed out and the word "know" is put in—"I know that it is wrong for a person to incite unrest among citizens by spreading stories and circulating rumors during war time, but if Thiel had come over to the United States to engage in such activity I would not think of reporting him because I would never betray a friend." You note the "if" and the "would".

"If I did I could never again respect myself. If I had thought that Thiel was here for a more sinister purpose involving violence and destruction I would have tried to persuade him not to do it, but if I did not succeed in persuading him not to do it I would have reported him without letting Thiel know. This would be for Thiel's own protection as well as for the protection of those

who might be killed or injured by such violent acts." Then on that same page, referring to Miss Kopp he says:

"I told her that I had a hunch that Thiel had come over to the United States in a submarine. I said that I did not know what he was here for, but that I thought that he was going to circulate rumors and spread stories among the citizens. She told me that she hoped that nothing happened to him and that he would not be caught."

The next one is here on the fifth page: "At this time"—and that expression "at this time" evidently refers to the previous
792 paragraph which discusses the money; I am not sure, but it seems so as I look at it, here—"At this time, I thought that he might have gotten the money from the German government, but I rejected this thought because Thiel was inconsequential insofar as violent acts and deeds injurious to persons and property are concerned. I have always known Thiel as a calm, dependable character, who had no strain of violence in him. Then the thought occurred to me that maybe he had gotten the money from Dr. Ziehaus in Vienna, who left the United States in 1932 and who is a physicist and chemist, or he might have gotten the money from some other prominent person. Inasmuch as I could not arrive at any definite conclusion as to where he had gotten the money I did not think any more about it. However, this thought still hovered in the back of my mind that the amount of money he had on his person and his presence in New York were connected in some way."

And then at the top of that page he says: "I had a hunch that Eddie was here for the same reason that Thiel was, but I did not ask him inasmuch as the previous two times I had asked Thiel why he was here he had put me off with a smile."

Then on the preceding page he says, "My hunch that he was here to spread stories and circulate rumors may have been wrong, but whatever his mission was, I thought that he was serious
793 in his undertaking. I believed at that time that anything he might undertake would be ineffectual and useless. I told him so at that time. However, I did not advise him to carry out his plans, because I did not know the nature of them."

And then, and I think this is the final one on this subject of his knowledge, he says: "I asked him"—and this is when he told him about the safe deposit box—"I asked him if he had come over here to incite unrest by spreading stories and creating rumors. Thiel would not admit anything to me but said again that he would let me know later on perhaps. When Thiel smiled at the questions I asked him about coming over in a submarine and about his reason for being here, I had a hunch that the large amount of money he said he had, had something to do with his

presence here, and the smiles he gave me to my questions tended to substantiate that hunch. I knew that when Thiel left the United States in 1941, his financial condition at that time would not permit him to have so much money and as I said before, I got the hunch that the money he had with him had some connection with his presence here.

How did all those things get in here? You can see from my reading them that in substance he is saying, just as Mr. Willis said on the stand there, that he insisted all the time these men questioned him that he did not know. He had these hunches, suspicions, surmises.

Now why, and how? Let me give you the answer by quoting from the testimony here. Because this is not imagination of mine. You remember how Cramer was talking about leading questions. With all his study of the language and the little book he had in his pocket, he cannot always express himself right. What he meant by that was that the Government men kept asking him these questions for his state of mind. I do not know whether you gentlemen have ever had somebody trying to find out what you were thinking last week, last night, this morning or some other time. It is a metaphysical thing when you get to inquiring about the mind of a person, and what did you think about this on such and such a day, and what did you think about that on such another day. It is almost impossible for anybody to answer that with any degree of accuracy. The natural person of course thinks that of course he ought to answer because he ought to know, and so he tries. That is what Cramer, as I claim, was trying to do here.

And let us see if that is not exactly what Mr. Willis says. Here is my question to him, and his answer, on page 260:

795 "Q. (Continuing)—whether he came over by submarine or not, and that Thiel gave him an evasive answer on it. Now referring, however, to these suspicions that maybe the money came from the German government to him, and maybe this and maybe that, were not those speculations all in response to repeated questions by you and the other agents to the effect, "What did you suppose he was here for? Where did you suppose he got the money? And things of that kind? Isn't that so?" And his answer is: "Yes. I recollect that is the substance of it."

796 "Now, gentlemen, how do you make this out? I did not give the testimony. There it is, and it seems to me a most natural thing. Of course they questioned him about that. There was not anything wrong about it. When Cramer said they asked him leading questions, and then Mr. Correa tried to pin him down so he could get him to accuse some one of these agents of doing something wrong, he would not say that, because he did

not claim they did anything wrong. They had a right to ask him those questions, whether you call them leading questions or suggestive questions. They were prying into his state of mind, and so you find in this statement all these surmises, all these hypotheses, because when he says "If this" or "If that," "I would have done that," how can anybody pretend those are not hypotheses; how can anybody pretend that originated other than by questions by the Government agents; perfectly proper questions, gentlemen. I do not deny that. But I say that is why they are in there, and that is why there is so much of that. Naturally that is what they were interested in primarily, and he thought so. How could he think otherwise? All right.

So much for the statement. I say as far as that statement of his goes, he claimed from beginning to end that he did not know what this fellow Thiel was here for, and that as a matter of fact he did not. He might have had his suspicions. He might have had thoughts that more or less existed at the time, or more or less were built up, when he was questioned. No human being under the sun could be precise about that sort of thing when he is questioned and questioned and questioned. But there is the paper, and I say the substance of the paper when you get all through is that he denied that he knew the purpose that Thiel came to this country for, and remember there is no evidence by any Government witness who heard what was said; that void is not supplied by any proof.

Now the second narrow focus has to do with the \$200 indebtedness. I don't know whether you gentlemen remember, but when I was opening to you in the beginning I said now we lawyers work on cases, and we come in with our evidence, but it has been my experience that twelve or fourteen men in a jurybox can always add something. You remember how I said when we came to this money business, I want you gentlemen to consider the evidence carefully, you may find more in that than I can make out because I knew it was a little confused. You remember that, I said that because I knew just exactly how this proof was coming out.

Now may I have that little book (Book handed to counsel). I do not think there is any doubt that Cramer had some money coming to him from Thiel. I am not going to elaborate on this. You remember I brought this little book in evidence. I did not offer just that page because I wanted you gentlemen to get a chance to look through it. I cannot find anything there that casts much light on it but, as I said, you are men of experience. You can add a lot of things I could not think of. But here is the page where he put down the money

that he had loaned Thiel from time to time, and you remember it is not added up right. He did not say what those ten-cent items were that were added to each one of them, or what they were for, and the total is not exactly \$200 but it is \$217.50; part of it in 1935 and part of it in 1937. Now I do not know. There it is. I do know that Cramer claimed that when he met Thiel and they talked about it that having agreed that his indebtedness was in the neighborhood of \$200, and that one of the things that actuated him about taking this money and putting it in the safe-deposit box was that that was a chance for him to get his \$200 back—I don't know whether that strikes you gentlemen as a matter that would be of interest to him or not. It seems to me very obviously that it would. Cramer was a careful man. There he was with his modest employment, saving up a little, a little, a little, until he got enough money to go back to Germany to visit his folks there in 1936. Now just imagine the amount of saving he did over all those years to get that \$400 or \$500 he needed for it. He was a careful man, careful about little sums of money. Now, as proof of the \$200, and mind you, this book and this little slip were things he had no opportunity to make up after the Government got hold of them. The book was up in the room there and when he was arrested he had no chance to go back and get the book or do anything to the book, and as far as this little slip is concerned, this was in his wallet when they arrested him, so he did not have a chance to say suddenly, "Excuse me. I will go into the toilet," and then write some things. When they take hold of a man they make mighty sure what he has in his pockets, so that is the way it is. And yet here on this slip he has the number of bills, the denominations, the eight gold notes. He told you he thought maybe they could not be used as money and they ought to be put separately, and he noted them on the memorandum and he put them separately in the box there, and here it says 3670 minus 200. I say to you gentlemen I don't know the exact details about this, but I do know that there is every reason to believe that Cramer's story is absolutely true; that he was to get \$200 and he was to get \$200 because it was owing to him.

Now let me give you just one other thing that I think is very convincing here. I want to refer again to the testimony of Mr. Willis, and I may say that my idea of a man who is a perfect man for his job is Mr. Willis. He is keen, he is careful, he is shrewd and he is honest. When he comes and tells you something, when he questions a witness to get something out of a witness, he is not interested in just getting a conviction; he is not interested in pursuing somebody like a bloodhound; he is interested in the truth, he is interested in justice. And I tell

you, gentlemen, that is the finest thing I could ever say about any man who is a Government agent. That is the way they ought to be and that is the way he is. He has done a marvelous job in this case, and in doing it he has never, one moment of the time, let a single thing come over that might put a greater burden on the defendant than was just, and, as I said, in my judgment, that is the finest thing you can say about a man who does his work.

Now here is what he said about this \$200: "Cramer has always asked me"—You remember how Willis was questioning Cramer from time to time; there were a series of times he was talking to him, and I am reading from page 256—"Cramer has always asked me about the status of the \$200 which Thiel told him he could keep. He has always elaborated on that to me too." And then a little lower down, "Each time I saw Cramer he would explain in detail his theory of why that money"—that is the \$200 I interpolate there—"belongs to him, and asked me about its safe keeping."

Now, gentlemen, is that persuasive?—Does that tend to make you think that what Cramer was worrying about when he was up there in jail and they were questioning him was this \$200? I tell you that man never understood for a moment what a jam he was in here. That is one thing that stands out in this case like a sore thumb. He was more worried about his \$200 up there than anything else, and that is the significance, as I see it, of that testimony of Mr. Willis there.

All right. So much for the \$200. Now the third thing in this close focus is Mr. Ostholtzoff's testimony. You remember Mr. Ostholtzoff said he was there that evening and at first Cramer lied about Thiel and he claimed his name really was William Thomas, and all this and that, and then when he finally said "You do not understand what a jam you are in; you better be careful," he said, "Let me speak to Mr. Ostholtzoff alone," and Mr. Ostholtzoff said, while all the other people were out of the room, that Cramer then told him that this fellow's name really was Thiel and that he had gone back to Germany and he had not gone out to the West Coast to stay at all. And then he added one additional statement which is the only thing, as
802 I see it, that Cramer has denied here. He said that Cramer told him that Thiel had told Cramer that he was over there on a mission for the German government.

Now I say, and my argument now is addressed to whether or not that statement really was made to Ostholtzoff that there are a variety of considerations and I want to show you them.

To begin with, doesn't it seem a curious thing that there is nothing about that in this typewritten statement here; not a word of it in there? Is it conceivable that when Ostholtzoff had that talk

with Cramer in the absence of the others, he did not tell Willis and the other FBI men about it, when they came back in the room? Isn't it a certainty that if it happened he certainly would tell them? It was the most important thing, if it occurred, that occurred that evening or the next day or at any other time in those talks. Surely if it were so he would have told them about it. And if he told them about it, they certainly would have added it to the statement. There is no disproof of Cramer's claim that whatever they put down and asked him to sign, he signed. They could have called these men back in rebuttal to prove that was not so if such were the fact. Cramer claimed, and I say to you gentlemen the evidence here supports it, that everything 803 these men got up there after talking with him which they asked him to sign, he signed. Indeed, as to this paper here, you remember there are several little places where there are changes, where there are additions. There is no claim that they ever submitted a paper to him having any such thing as Ostholthoff testified to in it, and he refused to sign it. If they did prepare such a paper and showed it to him and ask him to sign it, and he refused, wouldn't they have called these men in rebuttal to testify to you gentlemen? I say to you gentlemen that Ostholthoff must be mistaken about it. It is human to make mistakes. We all do. I do not say he wilfully falsified here. I told you in the beginning, and I repeat now, that I make no charge against these FBI men, but after all, people can be mistaken about things. But what we are interested in is the written statement which is supposed to have in it the various things that were stated by Cramer. You do not find anything such as that statement that Ostholthoff testified to and tossed out and that Cramer would not sign it. It just is not in there at all.

Let me show you what Mr. Willis testified about it, because you remember Mr. Willis came on first, and when I was cross-examining him I could not have had the slightest idea that Mr. Ostholthoff was going to come on again later and add this additional 804 detail. It could not possibly have been in my mind, and yet, as a lawyer of experience, I naturally wanted to exhaust the conversation so that if there was anything more Willis knew about what had been said that Saturday evening, I would not be at fault, and you remember how I plugged and plugged to do it. I did it by instinct, because that is the way any good lawyer would do, so he would not leave holed open behind him.

Just let me read you some of the testimony of Mr. Willis, because I am claiming to you gentlemen that if such a statement were made to Mr. Ostholthoff he would certainly have told Mr. Willis and the other men as soon as they came back in the room. If he told them that there would certainly have been additional

questioning of Cramer, to be sure that such a statement had been made and every effort to get it down in writing just as they got everything else under the sun in writing out of him. I am going to try to show you from the testimony of Mr. Willis that no such thing as that ever came to the attention of Mr. Willis at all.

Let me try to do it here with care, page after page. It won't take me very long. I know I am taking a long time, but I have to do that, gentlemen, and I am trying not to make it any longer than I can help. Here is the first part on page 234:

805 "Q. Have you told the jury all that you remember that Cramer said during that whole evening [referring to this Saturday evening]?—A. If you mean have I answered every question put to me, I say definitely yes."

And then going on, because I never like to pass people in a fog, I like to meet them head-on, so you know where you are getting:

"Q. No; I do not mean that at all. I thought there was probably more to it [Meaning the statement made by Cramer], and I don't think for a minute you are holding any of this back on purpose, and you know that. But I want to be sure if you told the jury all that you remember that was said by Cramer during that evening?—A. Yes, I have."

Now let me go on:

"Q. Have you told them all that you can remember?—A. All that I can remember sitting right here.

"Q. Let me see if I can help you a little; I am not sure that there is anything further, but I just want to make sure. When he asked to be left alone with Mr. Ostholthoff, of course you don't know what he said to Mr. Ostholthoff while you were out of the room, do you?—A. No, sir.

"Q. And when you came back isn't it a fact that Cramer made a statement to you and to Mr. Ostholthoff together?—A. He corrected his previous assertions.

know what he said to Mr. Ostholthoff while you were out of the

806 "Q. Well, I wish you would tell the jury about that so they will get the full picture of it.—A. Well, he said the man he told us was William Thomas was in reality Werner Thiel and that Werner Thiel was a friend of his whom he was protecting, and that Werner Thiel had given him \$3500, \$3600, which Cramer was keeping in the safe deposit box, and that it was not from the sale of securities, that the money was in fact not Cramer's but Thiel's."

Nothing about saying that Thiel told him he was here on a mission from the German Government.

"Q. Did he say why he had made the misstatements that he

had made in the beginning?—A. Yes. He said he wanted to protect Werner Thiel.

"Q. Was that statement that he made, as you have just told us, put down in writing? Didn't you get him to write it out and sign it?—A. Not that night; no, sir.

"Q. Wasn't there some stenographer or other person taking down what he told you and Mr. Osthoff that evening?—A. No, sir.

"Q. So that we can leave that with the assurance that you told the jury everything that you can remember about that interview, in substance?—A. Yes, sir."

And I say, "that is what I want to be sure of."

Now there is no place where we come back, and you remember he said about how the next morning they were continuing talking with him, MacInnes and Willis, the next morning, Sunday. I see this on page 247:

807 "Q. When was the next interview?—A. Starting eleven a. m., Sunday, June 28th.

"Q. Was it on that occasion that the writing which I have requested was obtained from him?—A. Yes, sir."

"Q. Before the writing was prepared did he make a statement orally?—A. Yes, sir.

"Q. And then the paper was prepared for the purpose of perpetuating in definite and definitive form what he had stated to you and others orally?—A. Yes, sir."

Now that morning there was only one other person with Willis and that was MacInnes, so when it says "the statement to you and others," it could not have had any other possible meaning except whether that written statement was got up so as to include what he said that morning, and what he said the previous evening, and, in any event, I told you gentlemen that, reading this testimony of Mr. Willis, it is inconceivable that Mr. Willis would have testified as he did without saying a word about any such claim that Thiel had told Cramer that he was here on a mission from the German government, if Willis had known of any such statement. I sewed that up in every way that a person can do so as to get the complete conversation and the full purport of it. I say Willis knew nothing of it. I say if he knew nothing of it,

then in all probability it is one of those things that did 808 not occur. I do not charge Mr. Osthoff with deliberately saying that. He probably thinks it was said. But I say that is a mistake. I say the preponderance of evidence does not coincide with that. I say you gentlemen cannot possibly find on this record beyond a reasonable doubt that that was said because of the circumstances I have mentioned, and particularly

this written statement here that contains all those things that Cramer is supposed to have told these men, and it does not contain one word about that particular statement that was claimed to have been made.

So much then for that, and we come now to Miss Kopp, and I think you will agree that I have kept my word when I told you that the focus is becoming closer and closer as I proceed, so that you may have the full picture, so that you may even get it microscopically. We gain nothing by holding back any of these details from you gentlemen; not one iota.

Now as to Miss Kopp let me say this: first, isn't it perfectly plain that Thiel's relations with her were such that they were simply—that she was his girl friend. Is there any doubt about that? Isn't the evidence perfectly complete on that? She and he were in love. I happen to think, although I may be wrong, that one of the things that shows that about as plainly as anything else is her admissions that they quarreled together.

809 She claimed he was going out with some other woman and he claimed she had been going out with some other man, and they fought around, and they were engaged to be married, as she testified. That is the relationship between Thiel and Norma Kopp. I say also that it is similarly clear that she is no spy, nor any member of any spy ring or connected with spies in any way, and the proof of that is that she walked into this courtroom and walked out of it a free woman. If there was even the slightest suspicion she was a spy or connected with spies, she would be in jail just where she would belong. And the fact that she is not, it seems to me indicates that pretty clearly.

Now I mention all this because to read the indictment you would get the impression that this letter that Cramer wrote to Norma Kopp about the "sensational news" he was going to give her, you would think from the indictment that he wanted to get in touch with her so she could do some spy work. I say, gentlemen, it is so clear that there cannot be any reasonable debate that the reason Thiel wanted to see Norma Kopp was because she was the girl he was engaged to marry and that is why he wanted her to come in town, and not for any spy work at all, and that is naturally the reason he looked for Cramer.

Now Miss Kopp said things that we claim are absolutely 810 not so. She is the only witness in the case that I can say, speaking to and looking at you gentlemen as I do, who deliberately lied, and I am going to prove it to you. She lied not once, not twice, but many times.

Let me have that newspaper [exhibit handed to counsel]. Do you gentlemen believe for one moment her testimony that when

she looked at this newspaper with the picture of the man she was engaged to marry, and the headline "Saboteurs landed in U. S. by U-boats and equipment to be used in destroying key war plants," do you believe for one minute her statement that she looked at the picture and did not read a word of the printed matter? I do not believe there can possibly be a man in this jury box, who would believe any such thing as that. Of course she read it, and she read it from beginning to end. Here [indicating] there was a little paragraph head, "Werner Thiel" in bold-faced type, and there were a lot of other things. You gentlemen looked at the paper at the time. I do not need to elaborate. The statement was a palpable falsehood. That is one sure thing we have to start with. No woman who is engaged to marry a man could possibly see a newspaper showing that he got in a jam such as this without reading it with avidity, every word that was in there.

Now what else? Well, she lied in a half a dozen different ways. For instance, she said, when I asked her about being dressed up that Saturday, yes, she was all dressed up; dressed up in order to meet Thiel? Oh, no; not dressed to see Thiel; she was dressed up on general principles. And so it was with a half dozen other things. I am not going to take the time to elaborate them because I think you gentlemen remember them. You saw the shifty way she testified. Maybe you could not tell it as I could when I stood back there. She would not meet my eye. I know what there is when one man looks a person in the eye. You know that just as well as I do. You could not just get that woman's eye. She would not look at you for a second, and I think you gentlemen watched her. She would glance at the jury and at the judge and her eyes never stayed in one place for more than a second or two. She was lying all right.

Now there has been in the law from time immemorial, a rule that is one of the most salutary rules that exist, and we lawyers call it the falsus in uno rule; the way it reads in Latin is, falsus in uno, falsus in omnibus, and it means that in every case where a witness wilfully testifies falsely to any material fact the judge, if he is to decide the facts, or the jury, may disregard the entire testimony of that witness. Now mind you, I do not tell you that you are required by law to throw it out. I say the law says that if you find that a witness testifies wilfully falsely on a material point you are at liberty to disregard his entire testimony. And that is what I ask you to do in this case. Without the testimony of Norma Kopp I say you gentlemen could not possibly find a verdict of guilty in this case, and I say I see no possibility of your finding what she said was true beyond a reason-

able doubt, and you cannot do it gentlemen. Her testimony is not worth it. There is a person who has, as far as all of us are concerned, has plainly and clearly lied, not once, but many times.

Now there is another point to this; when you speak of a person lying, people do not do that for fun. You would say, Why, she was Cramer's friend. She was engaged to marry Thiel. Why should she lie against Cramer? Well, I will show you the motive; it is just as clear as anything in this world could be, and it must have been plain to you when I questioned her again and again as to why she would not admit reading the newspaper. Why, she was thinking of Norma Kopp. She knew the minute she saw Tony Cramer arrested by the FBI men and taken out of that Kolping House that night, that she was on the brink of serious trouble herself, and the best way to get out of that was to cook up a story that would help the Government against Cramer. That is the easy way to buy your way out.

Now mind you, I am not accusing the Government of 813 making any deal with Norma Kopp or promising her any immunity or anything like that. Mr. Correa would not do such a thing in a case involving spies; in a case involving people who possibly committed crimes against the United States Government. He would not stoop to make any promise of immunity to a one of them. I know him well enough for that. He would not do it. It is just not in him. I do not make any such claim as that. And I say she knew the best way to keep herself out of trouble and that was to just add a little bit here, and a little bit there. She read that newspaper all right. It did not take a very smart woman, after she had read what you gentlemen are going to see in that paper, to know just what she needed to add to make her testimony of value so that she would save herself, which is what she has done.

I tell you gentlemen to have Cramer punished and that woman free to have Cramer and that man Burger, that fiend who came over here from Germany to blow up our factories and destroy our railroads and kill our people, to have him free while Cramer gets punished. I tell you gentlemen it is not right and I don't think you are going to do it.

Now let me come to another thing.

The COURT. Mr. Medina, you realize you have considerably exceeded the time as it was divided up.

814 MR. MEDINA. If your Honor please, as I explained to you in chambers—

The COURT. We won't discuss it. Just take more time if you want.

MR. MEDINA. Very well, your Honor, thank you. I don't think

any of you gentlemen will hold it against me that I have taken a little longer than I thought I would. I intend to defend this man to the utmost of my powers. I do not know how other lawyers look upon the job of defending someone, but to me it is not a perfunctory task; it is not just to make the motions, it is to do the job, and I am here to do it and I have not any apologies to anybody for it.

Now this Constitution. How any of you gentlemen can honestly believe that these ink marks that are put here on these various places, including the article on treason, indicates that a man of Cramer's make-up could, back a year or a year and a half or two years, or whatever the years were, ago, do that because he was contemplating the commission of treason, is beyond me. It is just ridiculous. It is absurd. The natural inference, the only one any reasonable person can make, is that he marked these, as he marked the other things, that he was studying there. Just look at them. I do not see how you can fail to see that each

815 one of them is something that a man such as Cramer would not understand; curious provisions; things he would want

to wonder about and try to ponder out; things that any American citizen might want to. But if there were more people, whether they were born here or not, who would take the trouble when they found it, whether it was in a wastebasket or whether in a subway or wherever it was, to take a copy of the Constitution and study it over, it would be better for many of the people here. You know some of our foreign-born citizens do those things that we people who live here all the time ought to do, but we do not. And here is this man having done something that was the duty of citizenship, having done something that was carrying out what he was supposed to do, mind you his oath was taken only a short time before September 17, 1937; he became a citizen in 1936, and he swore to uphold the Constitution and laws of the United States, and there the foreign-born, humble man, finds this paper and goes over it and marks the various places, and then, thank, gentlemen, it is brought here before you against him for treason for doing that. I believe it is not right. How can this paper possibly show any treasonable intent?

Now I do not want to talk about it any more. There is not a thing in this case I feel more strongly about than this paper here, but you take it and when you go out there look at it.

816 Now listen to what this treason business is, and it is just the same kind of a technical, obscure thing as the letters of marque and reprisal and the various other things; the bill of attainder and the ex post facto laws and the various other things he underlined. Listen to it:

"Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort."

Do you suppose that could have meant very much to Cramer? When I got into this case I had to do plenty of studying to find out what those words meant. I had no experience in treason cases. And there is plenty of law on it; hundreds and hundreds of cases going into the question of the definition of those words and what they mean.

Listen to the rest of it:

"No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court."

That is a curious provision. There is nothing like that about any other crime in our law. It is unique. It has a historical background that Cramer could not possibly have understood anything about, and then it says:

"Congress shall have power to declare the punishment of treason but not attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted."

Now I say, gentlemen, it is a perfectly natural thing for a man to mark that as something he did not understand; something he wanted to ponder on just as he would about the ex post facto laws and bills of attainder or letters of marque and reprisal and so on, or habeas corpus, too. I don't think he knew anything about that. It is referred to here, and perhaps will be a summation for the purpose of intimating that he was talking about a declaration of war; he was talking about habeas corpus; he was talking about treason; he was getting himself all ready for doing some treason. I tell you gentlemen it is ridiculous; it is absolutely absurd. There is no more connection between this newspaper and this case than there is between chalk and cheese.

I am going to leave that now, and I hope that when you come to deliberate you will take the trouble to see all those places where these marks are there, and don't forget this: there was a piece of paper in which he admitted about this. I will tell you what it was. I think I read it this morning; this thing that is supposed to be so bad with lines on, how do you suppose anybody could have proved that those lines were Cramer's? The law is that a mark cannot be proved by the testimony of a

818 handwriting expert, because a line is not handwriting. There would be no way under the sun that anybody could ever prove, except by Cramer himself, that he put those lines on there, and he, in his innocence, just as he did with all these other papers around here, signed this. Here is what he signed [exhib-

iting to jury]. He did not make any fuss about it. He did not hold back or refuse or hesitate. Here is what he says: "I hereby identify a page from the New York Times newspaper dated Friday, September 17, 1937, as having been part of a newspaper obtained by me on a date which I do not recall. The lines appearing on the page of the New York Times were made by me in ink."

Now of course I am not telling you that Cramer knew this rule of law about handwriting experts. I am not saying such a thing as that. I am just telling you that as a fact. Of course he did not know anything about that but he admitted this about these lines, just as he admitted everything else under the sun in this case, and he wrote it out and signed it, and it was retained here by Mr. Willis, and you will find practically every one of these things that Mr. Willis was the man who was with him and talked with him again and again and again, and that is why I quoted from his testimony there.

819 We come down now to a closer focus still, and that is the focus having to do with consciousness of guilt. No man can commit a crime of the enormity of treason without showing in some slight way, somewhere, at some time, a consciousness of wrongdoing. You gentlemen know that is so. It could not possibly be otherwise, and I am going to try to demonstrate to you that from first to last this man acted, in every conceivable way, without the slightest consciousness of guilt; without the slightest realization he had done anything wrong at all.

First I have already told you about how he was worried about his \$200. He kept bringing that up all the time. If he really entertained a treasonable intent, and was a man in jail for something that might lead to conviction of treason, he would not have been thinking any more about that \$200 than he would have been thinking about any other extraneous fact; perfectly ridiculous. There is one little thing—little? I do not say it is too much, but it is there. Now all of these things that have been produced here, except these letters they got up there at Goldstein's place where he had his mail box, they got them all in his room. He did not hide anything up there.

820 You remember when I had the FBI man who went up to his room on the stand, I took him around the room with a diagram, and he told how he had looked in the radio and did not find anything there, and they looked into the panels and felt of the mattress and the pillows, and they looked every conceivable place they could look, and they found nothing except what they found in drawers that were opened, unlocked, unpadlocked; nothing concealed. This copy of the Constitution with other papers was there right under the radio. The man had absolutely no consciousness of guilt in the situation whatever.

Now there were two things that they say he did hide. They say he had some part of the money in a book called something about music. Well, he did. I wonder how many of you men up in your homes when you have a little money that you want to put away somewhere. I wonder how many of you think it is a good thing to put the money in a book. You have a lot of books and you have a few dollars that you want to put away and there is not any better place to hide it. He admitted that. He did not want to lose it. He put it in there for the purpose of concealment, not because he felt he was guilty of any treason or wrongdoing but because it was a natural thing to do.

Then the matter of the citizenship papers. You remember about that: how the man from the FBI had gone all over the room and could not find a thing except these papers which have
821 been brought down, some of which have been offered in evidence and when he got down there Mr. Willis said, "Where are your citizenship papers?" Mr. Willis said he did not find them. "Let us go and ask Cramer?" and Cramer said, "Oh, yes, I will tell you where I put the citizenship papers. I wanted to hide those; I wanted to keep them in a safe place," so he explained how in the drawer of the desk there was a piece of paper in the drawer and he had lifted the piece of paper up and stuck the citizenship papers underneath, but they did not find them. They had looked all over the place, they had examined the panels and the mattress and the pillow, but they did not locate them. He told them they were there and they went back and got them.

Now we come to this business about the money belt and the shoebox. There is no doubt at all but there is a discrepancy between what Cramer testified here and what he put in his statement, and I want to bring that right out so that you will understand exactly what the difference is there.

He says in here that when he arrived home "I put the money belt in a shoebox." This is when he got home Tuesday night after getting the money belt from Thiel, and he says he "placed the shoebox under the radio." I the money belt there until the next
822 evening, June 24, 1942: when I came home from work I took the money belt out. This is now Wednesday night, "and counted out and found that the money belt contained something over \$3,500. I made a note as to the denominations of each bill and the amount of each denomination. I put this note in my wallet." What he said on the witness stand here was that when he got home there ~~that~~ Tuesday night he took the money out of the money belt then, and counted it, and put it in his brief case or some kind of a thing in the desk, and that he took the money belt and put it in the shoebox, and his explanation was that he had been thinking it over and that he thought that what he testified

here to you gentlemen was the fact; in other words, that he had taken the money out of the money belt Tuesday night instead of leaving it in the money belt until Wednesday night. That is the discrepancy, and that is the difference. There is no doubt about it. There it is. I do not see that it makes any particular difference, and it seems to me much more likely that when he got home Tuesday night with the money belt, with all that money in it, you would suppose he would want to see how much it was right away. I would not expect a man like Cramer to put it away and not think of looking to see how much was in there until the next night. I think what he testified here on reflection, on thinking it over, is more

likely to be so. But of course my good friend Mr. Correa
823 attributes that, as he would naturally, and as to other things, and I do not blame him, he attributes to that some sinister motive. "Oh," he says, "he is trying to claim that because if that money belt with the money in were put in the shoebox it would be put in the shoebox for some kind of concealment, and Cramer is changing his story so as to get away from that." You gentlemen will have to decide. I say it is the most natural thing in the world that he should open that money belt and take the money out and count it the very same night he got home, and put it in that box, but to say it was put in a shoebox for purposes of concealment, gentlemen, that just will not stand up.

Remember that man went around to the safe deposit box the next morning. If he had any idea there was any reason for concealing that money belt, naturally he would have taken it around and put it in the safe deposit box. It would be concealed there. It was easy to put in his pocket. He had had it in his pocket the night before when he got it from Thiel. I say putting it in the shoebox does not show any consciousness of guilt whatsoever; in fact the contrary. If he was going to conceal it he would have put it in the safe deposit box when he put the money in there.

824 Now there is a suggestion here about this money belt with this initial "W. T." It is suggested that maybe Mr. Cramer tried to obliterate the initials "W. T." You remember when that evidence came out. On this money belt here you can hardly see them. They are visible, but it is claimed that knowing he had something that was dangerous that he tried to obliterate those initials.

Let us see how that stands up. Let me show you gentlemen a little something, because these FBI men are pretty good. You see that little slip of paper there [indicating]. You see that little tiny square, and there are two or three others of them. There is another there you can hardly see, a little tiny square of paper has been taken out and then pasted back [exhibiting]. Did you notice

that there when you got the paper before? There is a little tiny square taken out of there and put back and there are two or three of those. Now you gentlemen will look at those when you get it out in your jury room. And I said, these FBI men are good. They know how to make chemical analyses. They went over this Constitution with all the art of chemistry that modern science makes available to them, and so did they do the same thing with this belt. I will tell you gentlemen if there was anything up around that room of Cramer's that could be connected with the obliteration of those initials, modern science would have made it perfectly plain. They had everything up there that was there. He did not have a chance to get away with anything, or hide anything or destroy anything, and I say to you that merely because those initials are obscured, whether by the operation of one force of nature or another—we do not know what it was—whatever it was rubbed them out, to the extent they were obliterated, if you choose to use that word, we do not know; there is no evidence here, absolutely nothing, gentlemen. You are not permitted to go off and speculate to this man's detriment on any such thing as that. You have to be continually alert lest some suspicion, some thought unsupported by any evidence, comes up in your mind to this man's detriment, and I tell you there is nothing to indicate that Mr. Cramer, for purposes of concealment, or with any consciousness of guilt, took those initials off or tried to take them off.

Now you see when I say to you that I am trying to be microscopic I meant what I said. I am trying to cover this case fully, and if I leave anything out it will be just not my fault. I won't do it on purpose.

Now we get down to this question of the letters to his family. Well, you knew how they went through the censor. You remember the reference in there "going twice through enemy censors."

How could he mean anything else but English and German censors? It has been conceded here that there was not any American censor then. The American censorship was not set up. He referred to it as any person would, in general terms, of enemy censorship and that meant the German and it meant the English. In any event, for the purpose of my present point, having to do with consciousness of guilt, he knew perfectly well that these letters were going through the censor. Does that seem like a man who is guilty of treason? Is there some hidden meaning that is supposed to be in these letters? Is there some invisible entry such as traitors and spies used, and that the FBI with all their care have not been able to find? Of course not. He knew those were going through the censor and he said so in one of the letters. They were sent openly without the slightest consciousness of guilt.

He signed everything the FBI asked him to sign. I am not going to get all those papers out. He identified every paper; he authorized them in writing to go into the safe deposit box. He gave them a written authorization to go up to his room and get everything that was up there. Every paper the FBI put before him he signed voluntarily. And don't forget this: there is no evidence that they ever asked him to sign a thing that he refused to sign, absolutely none, and if there had been they could have called men in rebuttal to prove it. I have proved it in the first place. So much then for that.

Now I am through with the matter of the focus and I want to talk very briefly on probabilities. My experience as a lawyer has meant to me that the answer always is in accordance with the probabilities. When I was a young man and somebody came in with an unlikely and fanciful story I used to think maybe it was so, but I found as I went on practicing law that the answer always is in accordance with the probabilities.

What are the probabilities here? Well, first let us suppose that Cramer had some knowledge of why Thiel was here. Suppose he knew that he was here as some sort of a spy to do the work of the German government, sabotage or whatever you choose. Isn't it absolutely a certainty that he would have known that it was a dangerous thing? No man, I don't care what his station in life, could fail to appreciate that, and if he did isn't it an absolute certainty that he would keep his mouth absolutely shut when he was arrested? You do not have to be a millionaire to have sense enough not to talk when you are in a jam like that. If this man had any real guilty knowledge, gentlemen, there is not one chance in a billion that he would have talked this way when they got him down here to the FBI men. I say it is absolutely improbable. It is contrary to every reasonable impulse any human being ever had. Mind you, there is no middle ground: either he had knowledge or he had not, and I say his speaking as he did and as freely as he did and as many times as he did and the cooperation he gave the Government as he did, is consistent only with the ground that he had no knowledge, which he insisted from first to last he had not.

Now secondly, Thiel was here on the most dangerous mission that any human being can undertake: to go into enemy country in time of war for military purposes. No doubt about that. Is it likely that when Thiel and those other saboteurs came over here that they were told to tell every Tom, Dick and Harry what they were over here for? Is it likely that they were told to take such men as Cramer and tell them all about it and what they were here for? Or is it more likely that they were instructed, and that they in fact did try, to use innocent tools who would serve their pur-

poses without any knowledge? I ask you, gentlemen, what is the more probable, what is the more likely thing? What earthly sense would there be in Thiel here on such a dangerous mission as that, telling a man like Cramer that he was here on some sort of a mission for the German government? Why, he would have to be insane to do that. It is all right for Cramer to have his suspicions

and to have his thoughts, some of which he may have thought they, and many of which in fact occurred to him only when he was questioned about it; but I tell you it is not probable, it is not likely, it is not reasonable to suppose that Thiel ever told him any such thing because that just would not be the way these fellows operate.

Now just a word in conclusion: without you gentlemen knowing it, when you left the room here this morning, I made certain motions which resulted in striking out from your consideration seven of the ten overt acts for insufficiency of proof, so that there remain now only number one and number two, having to do with alleged conversations at the Twin Oaks Inn, and number ten, having to do with the statements that Cramer first made to the FBI men.

I want you to remember that those are the only three left in here for you to consider, and you cannot find any verdict against Cramer here on anything unless you find the traitorous intent that I have been spending all this time trying to convince you that he did not entertain.

Now I say this: no one listening to Cramer's testimony could possibly think of him as a man who would betray his country and be a traitor. I say he does not fit the part. He just does not fit the part, gentlemen.

In conclusion, remember what I said in my opening: you cannot commit treason by inadvertence; no such thing as that. You cannot convict this man because he was a fool, because he was stupid, because he was negligent, because he did something that if he had any sense he would not have done. You have got to find the traitorous intent.

I thank you for your patience in listening to me. I have been longer than I meant to be, and I have not done that shouting around that I was afraid I might do, because I do get a little excited sometimes. I leave this case with you gentlemen in the confident hope that when you return to this room from your deliberations you will give a verdict of not guilty.

Thank you.
(Slight recess.)

Government's summation

MR. CORRÊA. May it please the Court, Gentlemen of the Jury: You have listened to a lot of talk today and I realize this is a rather late hour in the afternoon and that you are tired. Some of what you have heard has been of an oratorical and emotional variety, and I can say to you, so far as my discussion of the facts of this case is concerned, you can sit back in your seats and relax, for I shall not attempt to be eloquent nor oratorical, for to my mind neither oratory nor eloquence has a place in the summation. A summation in a case of this kind is a talk about facts in the case, mainly plain and undisputed facts, and I will say that I will try to discuss the facts of the case somewhat more briefly.

At the beginning of any discussion of the facts of this case it is necessary, it seems to me, to dispose of a few spurious issues that have been used, red herrings, if you will, that have been drawn across the path of your attention in the hope of perhaps distracting you from the real issues in the case; straw men that have been set up very carefully and elaborately only to be knocked down on points which are really not in issue.

Let me show you an example of what I mean. Take this argument, which was made very emotionally that Cramer should not be punished while Burger goes free. Who said Burger is going or had gone free? Don't you know better than that? What has he to do with this case?

Take the argument about Cramer's examination. You remember this argument about the Friends of New Germany. The first thing about that is that that particular fact was brought into this case by the defense, first upon the cross examination of Willis and then on the direct examination of the defendant Cramer. Let me show you how that came into the case. On the direct examination of Cramer, he was asked by his counsel, what caused you to pull out of the Friends of New Germany in Hammond, Indiana, in 1935, and Cramer answered, without thinking, contrary to his practice I may add, that he had, he said, "Well, there were many things I did not like. There was a swindle going on in the Bund." And his counsel came in right away with a question. But didn't you tell Mr. Willis that what you did not like was the marching and the radical practices? Cramer said "Oh, yes, I told him that, and I did not like those, and they were part of the reason, too."

Did you notice, too, we did not hear on direct, any more than the FBI heard when they talked to Cramer, about his connection

with the Friends of New Germany; that Cramer not only was a member of that and said he joined to have a social circle of friends, that he was in fact an officer of the Hammond, Indiana, community. He was the secretary, you will recall he told us, and he was the man who collected the dues; and when I asked on cross-examination "You did not tell the FBI that?" he did not, "I did not think of it at the time I spoke to the FBI about this subject." No, what he said was, "They did not ask me the question." You see the FBI only asked, Were you a member of the Bund? They did not say, Were you an officer? And that is the way Cramer answers questions. That is this humble man who has been characterized here as stupid and unintelligent, and so forth.

833 Now I am not going to build up, as was done here this morning, a picture of Cramer. To my mind the facts of what was done here by Cramer reveal as much of a picture of him as could be revealed, and a far better picture than any we could build up. However, I do want to comment along this preliminary line upon his veracity, because that is important in this case.

Now I notice no mention has been made of the fact that in his testimony on the witness stand here there were many departures, many differences, between his account of what he did with these men, Thiel and Kerling, and in connection with the whole matter, and the account which he gave to the FBI in the written statement which he signed under date of June 28th, which you recall by the way, because it is important on the excuse offered. June 28th was the Sunday of the week during which all of these things happened, that is, the Sunday following; only a few days after most of these events had happened.

The impression was given, it seems to me, that these differences consisted mainly of mere admissions; that is, if there were facts set forth in the statement which he had not mentioned here on the witness stand, the fact he had mentioned on the witness stand but which he had not gotten to mention in the statement. You know, if you reflect back on the cross-examination a moment, that is not just so. That these conflicts between his sworn

834 testimony on the witness stand and his statements to the FBI consist in direct, diametric contradictions in many instances.

To name only a few: for example, the story he tells you now for the first time about Kerling, and how Kerling came here because he wanted to escape from Germany; he liked this country better, and he said Kerling told him that, and he says in his statement, in so many words that he did not ask him, Kerling.

Now he asked Kerling and Kerling told him something or he did not. One must be the fact. Both cannot be.

Remember this, too, Cramer says as to some of these statements when taxed with these contradictions: "Well, I thought it over and I remembered better." Mind you, this is in November, months after all the events happened. He thinks it over and he remembers better the exact details of what happened then than he did the Sunday, two or three days after the event took place. What a commentary that is upon his general credibility and veracity!

Now notice too the change of approach, the change of line, or rather the contradiction which is entailed in his story concerning these contradictions. Do you remember the point that was made, that they made first on the cross-examination of Mr. Willis, which was made again by Cramer in his own examination, to the effect that here the FBI-men were bombarding him with questions; they were getting him to search his mind and give every shred of anything these saboteurs had said to him or anything he said to them about why they were here and what they were doing. That is the one side. He says they went after him to such an extent that he came to the point where, as he put it in his own words, "so as not to seem empty-headed I invented these things; I thought of these things and I told them these speculations." And yet on the other hand he turns right around and says "I did not tell them what Thiel told me about escaping from Germany. I did not tell them what Kerling told me about not liking Germany, and wanting to come over here. I did not tell them those things. I remember those things better now. Those things did not seem important at the time and I did not tell them." I say to you again, isn't that nothing but a web of inconsistencies, a maze of hopeless contradictory statements.

There is one other thing: when you examine all of the evidence concerning Cramer's statements, his statements here to you, his statements to the FBI and all these examinations, the first one on the Saturday night he was apprehended, the one that went into Sunday morning, and the second one after he had had sleep and been refreshed and had a chance to think it over, you see there is some line of reasoning to his evasion, to his twisting of the facts and to his falsehoods.

Note when first he was brought in he lied outright. He just did not know Thiel was even Thiel. His name was William Thomas, and he had never been out of this country, which was, by the way, the essential point; that Thomas or Thiel had never been out of the country. The reason it is essential is obvious, and that is the reason Cramer thought it was essential, because

obviously if Thiel had not been out of the country Thiel could not have been at a saboteur school in Berlin, and Thiel could not have been landed by submarine as a saboteur, and that was the one point of falsehood on which he insisted throughout the early part of the interview, an hour or an hour and a half, until the interview with Ostholtzoff. Now when it came to the interview with Ostholtzoff, Ostholtzoff said, as both he and Ostholtzoff testified, "You are in a serious matter, Cramer." He also said "We know a lot more about this than you realize." And isn't it apparent that they were pointing out to him in the course of their questioning things that had been observed during the surveillance. Cramer, of course at that time was not sure just how much they did know. Remember what he told you about Thiel pointing out, when they were seated in the Twin Oaks in 837 on June 22nd, that there was a man behind them who seemed to be listening, and you remember how Cramer told him "You better not speak so loudly because there is somebody back there who seems to be paying attention."

Well I wonder whether Cramer still thought, when he was talking to Ostholtzoff, that that person listening back there to their conversation was an FBI man. In any event he was frank, or nearly frank, or more nearly frank than he has been in anything said with Ostholtzoff alone, and he told him in so many words, "Thiel told me he was here on a mission for the German government." And that testimony stands.

Cramer was frank, but not so frank as to lose his cunning. Do you recall that Willis testified and Ostholtzoff testified that Cramer said he wanted to talk to Ostholtzoff alone because he did not want to say this in front of all these other men? What do you suppose he had in mind then? Don't you suppose he had in mind just what came about, that some day he might want to sit on the witness stand and testify that he hadn't told Ostholtzoff exactly what he had told him? Let us follow that a little further. Remember, no written statement was taken from Cramer that night. He went to bed, he slept; he had breakfast in the morning, and thus refreshed was again interrogated the following 838 day, Sunday afternoon. Now at that time Cramer apparently had thought the matter over and decided to adopt a position. And his position was again a little receding from the statement he made to Ostholtzoff, but an attempt, nevertheless, to square with that statement. His position was not that Thiel had told him anything, you see, but that he had a hunch. Thiel had smiled and he put him off, and he had a hunch these things, and "I had a hunch." And he went further. He had a hunch that not only was Thiel on a mission for the German government but—and

this is the interesting part—that Thiel was on a mission which was to incite unrest by spreading rumors.

Now apparently Cramer had some notion at that time that that was not so bad; that he could admit that Thiel was here for that purpose, so that he at least suspected that Thiel was here for that purpose; and he went further: the whole tone, or rather, you might say, the theme of his position at the time of that questioning on June 28th is set forth in that final paragraph of that statement; where he says that is his position. He says, "I would not have reported to you had I known, were sure, that he was here to spread rumors and incite unrest, because he is my friend. But of course had I known he was here for violence, destruction of property or injury to persons I would have reported him 839 for his own sake and for the sake of the country."

Now that is position No. 2, at the time of the statement of June 28th. He says nothing in that statement about protecting Thiel from a draft charge, not a word. But as Willis testified, he elaborated on the statement later in subsequent interviews. And in his elaboration his elaboration was along the line that Thiel was involved in some draft charge not mentioned in the statement, because now we are getting into another position, you see, and that that was really the thing that accounted for his wanting to lie on Thiel's behalf to cover up Thiel. And the reason why he thought Thiel was using a false name and all the rest.

Now we come up to the trial here. Having seen the Government's evidence, sitting here throughout the trial, Cramer has realized that his position so far as this matter of spreading rumors and inciting unrest being the mission of Thiel and Kerling, is untenable and dangerous, now he takes an entirely new tack which you heard on his direct examination, and that tack is that Well, these men told him that they were refugees, in effect, from German oppression, that they wanted to get away from Germany and they had seen an opportunity and they seized upon it.

Never told to the FBI, wholly a new invention but nevertheless his statement now, on the trial. 840

I do not think it is really necessary to argue to you, or any of you, at great length Cramer's veracity and credibility in the face of these facts which have been demonstrated to you by the evidence and by his very appearance on the witness stand. Remember, gentlemen, in a criminal trial, or for that matter in any kind of trial where you act as jurors, you are entitled to take the evidence through your eyes as well as through your ears. Very often the way a man says something is equally important as what he says; and keep that particularly in mind when you re-

member the picture of Cramer sitting up there on the witness stand, not on his cross-examination alone, but on his direct examination as well.

Now at the outset of any discussion of the evidence in the case, let me again refresh your recollection very briefly as to the charge: Treason consists, as you have heard, in adhering to an enemy, giving him aid and comfort. In this indictment the treason charged to Cramer is specifically in adhering to two named enemies of the United States, Kerling and Thiel, and giving them aid and comfort. The evidence here has shown not only that Kerling and Thiel were enemies of the United States, but specifically what kind of enemies they were, what it was their mission to

841 do here. Now, we think that the proof supports the inference, and by the way, if I may digress very briefly, do not fail to distinguish between inferences which you are entitled to draw from circumstances consistent with no other hypotheses or conclusions, and suspicion about which you have heard so much: an inference properly drawn from evidence, competent evidence, is not suspicion; you are entitled to draw it and rely upon it in arriving at your conclusion as to what the facts in this case were.

But to continue: We think the proof supports the inference that Cramer knew what kind of enemies they were, and I will have more to say about that a little later in the summation. But be entirely clear about this—and this is important—that whether he knew or not, and all Cramer had to know to commit this crime was that Kerling and Thiel were enemies, he did not have to know what kind of enemies they were; it does not matter whether he thought they were here for the purpose of sabotage or whether he thought they were here for the purpose of espionage, or whether he thought they were here for the purpose of propaganda of spreading rumors and inciting unrest, or whether he thought they were here for any other hostile purpose you can imagine. All he had to know was that they were enemies. The law

842 does not permit a man to say "I hated this person, knowing he was an enemy, but I thought he was this kind of enemy and it turned out he was another kind, and therefore I am

not guilty." The law makes no distinction, wisely so. An enemy is an enemy, and he who adheres to him in giving him aid and comfort is a traitor and nothing else. After all, it is just as if one of these saboteurs had taken one of these blocks of detonated bricks which you saw and tossed it into a war plant at night, intending, or thinking only to destroy the plant, to commit sabotage of materials, and at 843 turned out there was a night shift there and he had killed several hundred people. He could not be permitted to say, "Well, I did not intend that kind of

sabotage; I intended only the destruction of property." And so it is as to the kind of enemy. Now just that one point on the law.

Now let us turn to a brief chronological review of the facts. And at the outset I want to say about this crime that its gravity and the seriousness of what was attempted here is, in no way diminished by the fact that it was unsuccessful. That was not Cramer's fault, and I think you can be sure of that from the evidence. I think it is a great tribute indeed to the diligence and vigilance of our Federal Bureau of Investigation that this insidious stab at the very vitals of our war effort was thwarted so speedily and so successfully as it was. But it does not, 843 mind you, diminish one bit from the gravity of the crime, from the crime of those eight men or the crime of this defendant with which we are concerned here.

We have shown the genesis of this desperate try by the German high command to strike at our war effort from within. We have shown you how picked men of the German army were chosen and how they were carefully groomed for their dangerous task. Now have in mind, too, as I think is reasonably inferable from the evidence, that these men were chosen as much as anything, it would seem to me, upon the basis of their knowledge of this country, the basis that they lived here before. Both Kerling and Thiel had. I believe Burger testified he had, too. And their acquaintance with people over here upon whom they could call. Doesn't that seem a most reasonable inference as well? after all, this whole thing was so carefully planned, with typical German thoroughness, that it is inconceivable that the High Command made no arrangements, made no provision as to whom these men should contact, when they arrived here. That they just, as it were, dropped them over here with general instructions to blow up aluminum plants and nothing more. I say to you that this proof is susceptible of no other inference.

Now remember in that connection Cramer's letters, and I 844 am going to have more to say about that on the issue of motive, but on this issue remember his letters and remember that despite his evasions on the witness stand, and they were many—including even fighting on the translation when he was pressed for the point, where he had to admit that this was what he had written, and then he translated it by leaving out a whole phrase, and when we pointed it out to him he had to admit that he had mistranslated it. Remember that despite all that, his letters give a pretty good indication where his sympathies were. Remember the German principle, or the Nazi principle of which we have heard so much, that citizenship means nothing, that once a man is born a German he is always a German and that his

assumption of some foreign citizenship is a matter of convenience merely. Contrast with that, or compare with it, rather Cramer's letter to Thielmann of April, 1942, a portion that has not been read today, where he says to Thielmann, "You are lucky to have become a citizen just at the right time, otherwise you might perhaps also experience difficulties." And you recall he was referring to the rounding up and internment of enemy aliens in Yorkville in the context of that statement. Recall, too, his letter to his family, which is one of the two that were returned because service was suspended to Germany at the outbreak of war, where he says, "Every day here I hear the shrieks of hatred and the
 845 clamor for the annihilation of Germans from the hostile foreigners." Whom did he mean by "the hostile foreigners?"

I wonder?

Now coming back to the development of this plan as it was unfolded in the evidence. We have shown how, after careful training, these men were equipped. You have seen here certain pictures of the various lethal weapons, the infernal device of one sort and another, explosives and bombs and detonators and all of that with which they were equipped to perform their assigned task over here. We have also heard of one equally important weapon with which they were equipped, one equally essential to the success of their mission over here, and I refer to their money belts, the money belts filled with substantial amounts of good American dollars, American currency. As a matter of fact, the proof has traced on of those actual money belts all the way from the Nazi naval base on the coast of France, where it was given to Thiel, to its last of ultimate resting place up in Cramer's apartment up in Yorkville. You have heard that, and this is important and will become significant in connection with the evidence of the meeting, how before these men left they were divided into two groups and a leader, a commanding officer if you will, was designated for each group. And you have heard that Kerling was the leader designated for the group of which Thiel was a
 846 member. That is the group that landed in Florida, and the group with which we are mainly concerned in this case.

You have heard how fully equipped, prepared as they thought for all contingencies, the two groups embarked on submarines and set forth for the shores of America. Curiously enough, from Cramer we have heard a little of what happened on that journey, for Cramer tells us that Thiel told him that the group of which Thiel was a member, Kerling's group, or rather the submarine in which they were travelling, was bombed on the way over. And I think it quite likely that in that small respect Cramer's testimony of what Thiel told him is probably true.

The evidence has indicated how the Kerling group arrived here on the shores of Florida, near Punta Vedra Beach, or whatever the name of the town is, how they buried their equipment and their uniform caps and proceeded to Jacksonville. We have evidence, the evidence of the various hotel people and the hotel records, that both Kerling and Thiel were in Jacksonville. And we have evidence that within a few days after they landed—they landed, I believe the testimony was, on June 17th, and on June 21st both Kerling and Thiel arrived in New York City at the Commodore Hotel.

847 Now the proof shows, too, that this arrival of Kerling and Thiel in New York, more than 1,000 miles from the site where they had buried the materials and equipment they expected to use on their mission over here, was no aimless wandering on their part. They were not in New York 24 hours before Thiel had contacted his old friend Anthony Cramer. And you recall, too, the mysterious manner in which that was done—the note pushed under the door, an anonymous communication referring to "Franz from Chicago" whom Cramer says he never heard of; he says the name meant nothing to him. And while we do not have the note, Cramer—this man who saw fit to keep an unmailed postcard for over a year—did not see fit to preserve this note for one day, according to his testimony, as he quoted it; and according to his testimony it says "Be at the Grand Central Station tonight at 8 o'clock, the upper platform near the information booth. Franz from Chicago has come into town and wants to see you. Don't fail to be there."

Well that is a curious communication, isn't it? You notice the almost military tone: "Don't fail to be there." This is no request or suggestion. That is a command. I wonder whether there was anything else in that note that you haven't heard about? In any event, although Cramer says he knew no Franz from Chicago, knew no one designated or who might be designated by 848 that name, that it was no code name or prearranged nickname or anything of that sort, nevertheless he went down, according to his testimony, to Grand Central Station to the appointed place, at the appointed hour, and there he ran into Thiel. And that was the evening of June 22nd.

Now Cramer and Thiel spent that evening together, some three hours. I do not propose to bore you with a recital of Cramer's equivocations, contradictions, his backing and filling on the subject of their conversation that evening or on the subject of his meeting with Thiel that evening. We do know that there was an earnest conversation, lasting over three hours. Clearly we do not know the whole truth about that conversation, but I

think, fairly taking all of the evidence into account, this much may be gleaned: Thiel was not long in telling Cramer that he had arrived here by submarine. He discussed the incidents of the journey, the bombing for example, discussed the fact that he had come, as Cramer says in his statement, from or through Jacksonville, Florida. Second, Thiel made it plain to Cramer that he was here on a mission for the German government which, I might add, seems scarcely necessary in view of the disclosure of the manner of his arrival here. Who comes here in time of war by submarine except someone on a mission for the German government?

849 Third, Thiel told Cramer that he had a large sum of money for use in carrying out his mission. Cramer says that was "hunch." I think you can fairly infer that Thiel had told him in so many words and he sought Cramer's help in concealing this money and safekeeping it while he was here. The fourth and most important thing we can gather is this: Cramer fell in with the plan completely, without hesitation, as Thiel must have known from his letters he could be expected to do. Cramer was willing, even eager, to keep the money and the money belt for him. He was willing, even eager, to meet him again as soon as he could, the following evening. As you recall, they met that day, and they did meet. Now, significantly, however—and note this—Thiel did not give him the money belt that night. This was the night of June 22nd. Cramer says it was all arranged. He suggested that he take it, and Thiel said that that is fine, but he did not give him the money belt that night. The following evening, June 23rd, they met again pursuant to the arrangement they had made. And again they spent the entire evening together.

Now before going into the conversation that evening let us look at what, objectively, we know happened that evening, from facts other than conversation. First we know that Thiel and 850 Cramer sat there at the Twin Oaks for a little while and Kerling came in and joined them. And Kerling sat there for a short time, about a half hour if I recall the testimony, and talked with Thiel and Cramer and then he left. Now remember Kerling is the German soldier who was designated by the high command to lead the group of which Thiel was a member. He was an officer. And he did not know Cramer. We have that, too. Very well. He met him once casually.

Now the next thing we know is that after Kerling left, and only after, Thiel went into the men's room and took off the money belt and gave it to Cramer, and Cramer took it home with him that night. Now from those facts, apart from the conversation, isn't it perfectly clear that Kerling came in there as leader of the

group of which Thiel was a member for the purpose of looking Cramer over, that Thiel had vouched for Cramer to Kerling, that Kerling wanted to see for himself, that he did come in there, that he looked him over and that he found him satisfactory and gave Thiel clearance, because after Kerling left Thiel turned over the money belt? Isn't that a perfectly reasonable fair inference, just from those facts alone, without the conversation?

Now of course from those facts, the facts concerning the money belt and Kerling's position in this group, we get much light as to what the conversation must have been. When it comes to Cramer's testimony again we get little help from a mass of conflicting statements. This, however, I think is clear: Kerling made no bones about disclosing to Cramer that he had arrived with Thiel a few days before, and Cramer knew—I think Cramer he says "hunch" or "suspicion" or "guess," or whatever it is, but I say he knew—that they came in the same manner, naturally by submarine and in the same submarine.

Now remember, here is Kerling. Kerling is in effect an officer. I do not know whether he was commissioned or not, but he was designated as leader of a group that had a very dangerous mission over here, and Kerling did not know Cramer. Cramer says he did not know Kerling well, that he met him once in Yorkville. Do you suppose that Kerling would have come in and discussed with Cramer, a stranger, a nodding acquaintance, the mode of his arrival over here, the date of his arrival, the fact that he had come with Thiel, unless Cramer were in on it, unless Thiel had vouched to Kerling for Cramer, unless Cramer were the trusted confidant of the two of them?

Cramer and Thiel remained together for the rest of that evening, and it was during this evening that they had further discussion about Norma Kopp. The significant thing, it seems to me, concerning what Cramer did for Thiel in the matter of Norma Kopp, is the fact that Thiel needed someone to get in touch with Norma Kopp for him. She was not in town, she was out in Connecticut. And Thiel needed someone who could bring the news to Norma cautiously. In other words, if Thiel took some acquaintance of his and Norma's who did not know what Thiel's mission was here, or that it was a dangerous and secret one and just said to him "Now you tell Norma Kopp that I am back in town and I would like to see her," Norma getting that information would see no harm in spreading it among her friends—"Thiel is back." So it was essential that Thiel have someone to break the news to Norma who himself—that is, the one who broke the news—would be in the know and would know how to do it cautiously. Thiel could not do it himself, because, remem-

ber, these men indicated throughout a great aversion to writing any letters. Remember the note that Cramer got, the "Franz from Chicago" note. Thiel could not do that himself. He did not want his own name to appear in any communication. Now that was the real service that Cramer performed in writing the letter to Norma, and that is the real reason why Cramer was the one that Thiel asked to do it.

Cramer knows perfectly well that that is so. He knows perfectly well that that is the real reason, and he has demonstrated that knowledge by his conduct on the witness stand.

853 Do you recall his answers when his own counsel asked him the question, apropos of this conversation, "Why couldn't Thiel write to Norma himself?" Well, I have that listed here. He gave four different answers to that, one after another, as the question was repeated. He said, first, Thiel did not know the address. His second answer, he did not have any reason, he simply wanted to make sure she did come and see Werner. His third answer, Thiel was afraid that if his name were mentioned to Norma she might faint. And his fourth answer, Cramer wanted to have, as he puts it, the gratification of bringing the glad tidings to Norma. What was he doing all the backing and filling about? Don't you suppose it was because of the knowledge he had of the real reason, the reason he did not want to say and he wouldn't say, no matter what the truth was? In any event the proof has shown that Cramer did exactly what Thiel asked him to do. He wrote the letter to Norma. Norma came down to see him. And then Cramer disclosed to her that Thiel was here, and how he had arrived, by submarine. And the important fact, because if you recall it was important for Norma to know that Thiel was here on a mission for the German government so that she committed no indiscretion in disclosing his presence here, Cramer told her Thiel was 854 here on a mission for the German government.

Now another thing he told her which is rather significant. You recall the implication that it seemed to me was made, or attempted to be drawn, that Norma Koppp learned what had happened here, learned the thing she told us on the witness stand that Cramer told her, from the newspaper. Did you notice that Norma Koppp says Thiel, or rather Cramer, told her that Thiel had told him that he and the others with him were going to take their directions, get their instructions from a "sitz" in the Bronx; "hide-out" she translates it. I say to you you can take that New York Times newspaper; it is the only one in evidence, and read that every word that is printed in that paper on this saboteur scheme, and you won't find that particular detail mentioned anywhere, not anywhere in that entire account.

Now coming back to the narrative review of the evidence, Cramer took the money belt home and there concealed it in the shoe box; and I say "concealed it," and I will have something to say on that. The next evening he counted it and he made the memo which is in evidence, the memorandum which was shown to you this morning. Notice Cramer says he made that memorandum for Thiel's protection, and note that it indicates not only the amount of money there and the amount that Cramer felt
855 was owing to him; it indicates as well the number of gold notes, of gold certificates included in that batch. Cramer knew that Thiel was risking immediate detection the moment he tried to pass one of those gold notes, and Cramer wanted to help Thiel by pointing out to him that there were gold notes there, and how many there. Isn't that the perfectly clear import of what he did in respect of the memorandum?

The money counted, Cramer restored it to its place of concealment, the shoe box. And the next morning he again removed the money from the place and took it to the bank, except for a small amount which he says he kept around his apartment for Thiel's more immediate uses. Cramer hid the belt again at the bottom of the shoe box.

Notice there again how Cramer has varied his story. He started in and told the FBI just what I have told you, that he put the money and the money belt in the shoe box, down at the bottom. And that when he counted the money he took it out of the belt, replaced it in the belt and again put it down in the shoe box. He hadn't thought at that time of this explanation about using the money belt for the purpose of shining his shoes. You heard Mr. Willis testify he never mentioned any such explanation to them, but again when this trial came along he thought of that ex-
856 planation, it seemed a good explanation, get away from any suspicion of hiding something; and what if it was inconsistent with his prior story? And as he has done so many times before he just abandoned the prior story to the extent that it was inconsistent, and he didn't think it important, or he didn't remember very well. He remembers better now, months after, than he did then, three days after.

As I said before, Cramer fell in with the plan completely. There is no better proof of that than his conduct during the remainder of this week of June 22nd. Remember now, Cramer's theory is that this was a casual, merely fortuitous meeting with an old friend. His interest in the matter was simply that Thiel owed him a couple of hundred dollars and he liked to see him. Now is that consistent with his conduct during these days of this week after

Thiel had been apprehended? Remember Cramer went downtown every night, Thursday night and Friday night, and what did he do downtown? He hung around Thompson's cafeteria and the Twin Oaks Inn and Bryant Park, and he went back there and peered in. He knew Thiel was staying at the Commodore Hotel. Thiel had told him that on June 22nd. If Thiel were really an old friend and he really meant that, why didn't he go in the hotel and ask for Thiel's room and leave a message for him? No. It wasn't until Saturday morning, after he had been down two nights and wandered around and still had been unsuccessful in locating Thiel, that he finally got up the courage to leave a note which he says he laboriously drafted in his room, even to the extent of making a preliminary draft which you have seen and which read exactly, or almost exactly, as the final.

Now there has been some talk about consciousness of guilt. I say to you that conduct is as good evidence of consciousness of guilt as ever you will find. Now the chronology ends of course with the Saturday evening when Cramer was arrested at the Kolping House. Not even then did he relinquish his efforts to aid and comfort Thiel, to protect Thiel and to further the success of his mission by preventing its detection. Cramer's efforts to continue to aid and comfort Thiel form the basis of the tenth overt act set forth in the indictment.

A word about these overt acts. Counsel has stated, and the motion was made, and that is correct—you recall I stated to you on opening that we would prove the fact set forth in every one of those overt acts by good and sufficient legally admissible proofs, that we would prove at least one of the ten, and I think I said probably several, in the manner required by the Constitution, that is by two direct or two independent witnesses. Now we have proved, and our position is we have proven, three of the acts in the technical manner required by the Constitution. They are the tenth, which is proved and established beyond peradventure of doubt by the testimony of Willis and Ostholtzoff; the first and the second.

Now you recall the proof as to that first interview, the false statements that Cramer made, the statement that Thiel's name was "Bill Thomas", that Bill Thomas had been working in a factory on the West Coast from March, 1941 to June, 1942, that Thiel or Thomas had not been out of the United States since March, 1941, or since he knew him; that the money belt Cramer had received from Thiel contained only \$200, which was money Thiel owed to him; that the \$3,500 in the safe deposit box was Cramer's own money which he had obtained from the sale of his own securities. The proof has shown further that Cramer's statements were not to protect him. If, for he admits, he did not realize

until Ostholthoff told him that the FBI knew enough to seriously involve him. He was seriously involved.

So far as this draft charge is concerned, again the proof is shown that that is a more recent invention than this first meeting of Cramer's: Cramer did say to them in that interrogation, when they confronted him with the fact that Bill Thomas was really

Werner Thiel. He said, "Well he is using the name Bill Thomas because of some draft charge," and then he went on to say, "But Thiel has not been out of the United States either, you see." The statement to the FBI that Thiel was using the name Bill Thomas because of some draft charge was part of the same fabrication of which the statement that Thiel had not been out of the United States was a part. And that is shown because you recall in the statement he signed the next day he says, "Thiel never told me why he was using the name Bill Thomas," because the next day he was not the king of the draft charge. He was thinking what Thiel's real purpose was, and he did not want to admit that Thiel had told him why he was using that name.

Now since we need only one overt act that tenth one suffices. It has been proved in every way, in accordance with the Constitutional requirements. However, there are these other two. The first has to do with Cramer's meeting and conversing with Thiel, and Kerling, at the Twin Oaks Inn on June 25th; the second has to do with Cramer's meeting and conversing and conferring with Thiel during the remainder of the evening of that day at the Twin Oaks Inn and Thompson's cafeteria, and on the adjacent streets. In evaluating these two overt acts bear in mind what aid and comfort used in this statute mean. After all, this law is not a technical one traditionally, and this is the notion embodied in the terms of the law, traditionally when one nation—when a nation is at war and an enemy penetrates behind the battle lines and within the nation's borders, it is the theory of the treason law that the hand of every loyal citizen is raised against the enemy, that every door is shut to him, that he can find no rest or peace within the warring nation whose borders he has penetrated.

Now that simply and sensibly is the theory and the purpose of the treason statute, and it is in that light you can appraise acts to determine whether they really constitute aid and comfort. Remember, too, that in considering the acts of meeting, conferring, talking, conversing, even though or even assuming we did not know anything about the conversation, we are nevertheless entitled to have in mind what were the conditions under which it took place; what did the parties know about each other, who were the parties, where they had been and what had they

been through. Here were these two men who six or seven days before had landed from a submarine on the coast of Florida after a trip which must have been harrowing, strangers—or rather, alone in an enemy country.

861. Here was Cramer, a man who, as the proof will show, was trusted by them, was their confidant. I say to you it was certainly aid and comfort to them in every genuine sense and real sense of that term, even to be able to sit down with a trusted friend, a confidant, and talk about inconsequentials, or the weather, or anything else. Now so much for the Government's evidence.

Let us turn now for a moment to the defendant's acts. Basically, as has been stated, it comes down to the single issue of intent. What he said, I take it, is that Cramer did all these things but that he did them without the knowledge that he was treating with enemies or that he was rendering them aid and comfort, and, in consequence, that he had no intent.

Now of course there is specific proof in this case of Cramer's knowledge that he was treating with enemy agents, and that proof is uncontradicted except for Cramer's contradiction, and I think you can evaluate that at its true worth. But apart from the specific proof, the undisputed evidence as to what was done here is such that from it alone the only conclusion that they can logically follow is that Cramer knew these men to be enemy agents and that he was told by them that they were such.

862. Look at that a moment. Isn't it inconceivable that

Cramer did not know these men were enemy agents? Consider the facts. Here he meets in Grand Central Terminal a man whom he knows to be a Nazi, a man he knows has just come from Germany. Put yourself in his place. And he says to this man, "You must have come by submarine," and according to his testimony Thiel turned and looked startled. And then Thiel tells him, "We were bombed on the trip over." Is it conceivable, is it reasonable, that Cramer did not know, even on the basis of what he knows himself? Don't forget either the circumstances of his meeting with Thiel, the note slipped under the door, a strange handwriting, an unfamiliar voice calling his name in the hall, the rather cryptic terminology and references contained in the note. How could any man miss the clear implication of those facts? And I say to you on this issue of Cramer being a man of intelligence, you don't need a college education to know that when you meet a Nazi in Grand Central Station in time of war and he tells you he came off a submarine, that he is an enemy. I don't think you even need a great school education for that, much less Cramer, a student of Nietzsche and Ranke, the commentator on the political scene.

Truth, the evidence here has painted a picture of this defendant far different from the humble, hardworking laborer that was depicted for us on the opening. What a contrast to that picture of the simple laborer is this man who throughout every examination on the facts of this case and the facts in his knowledge has sat back, as you have seen, constantly trying to out-manuever the questioner, to predict the next move and to be prepared for it just as though he were playing a game of chess, and completely without regard to the relation of his statements to the truth.

Now again on this matter of knowledge, is it not an equally inescapable conclusion that Cramer was told, that is, that not only did he know from what he saw and what he heard, and what he admits seeing and hearing, that these men were enemies, but that he was told by them? Remember, Kerling and Thiel came to New York and sought Cramer out. Thiel not only spent all the time he could in Cramer's company, but he arranged apparently, and I think it is the only fair inference, for Cramer to meet his chief, Kerling, the head of that group. Clearly, Kerling and Thiel, over here as they were on this mission, were not interested in coming a thousand miles to have a beer or two with a casual acquaintance. Nor were they interested in meeting and discussing such delicate topics as the manner in which they arrived here with people for no purpose other than conversation.

Isn't it inescapable that they had a purpose in contacting Cramer and that as a part of their purpose they must have told him? Forgetting all the other evidence which indicates that they did, for the moment.

Now Cramer is an intelligent man. He showed on the witness stand that he realizes full well the force of that argument; he realizes that the very facts, the things he did, the things he heard and saw, are such that they are completely inconsistent with any statements by him that he didn't know, had no suspicion that these men were enemies. So what he does is this: through a maze of tortuous evasions he finally arrives at the decision that he thought, he believes, or he had a hunch that these were enemies but that he suspended judgment and he did not think any more about it. Why? Because Thiel had said, "I will tell you more about it later," or "I will tell you all about it later."

I say to you gentlemen a man may not in reason and in logic say "My eyes are open, all the evidence is before them but I do not see."

Of course corroborating the inevitable conclusion are the facts themselves. We have the specific evidence or the proof, rather, of Cramer's specific admissions that he was told by Thiel that he

was here on a mission for the German government. Now we have Kopp's testimony, and I mentioned that. Cramer 865 told her that Thiel was here and that he was here on a mission for the German government; and Kopp's testimony, although it has been assailed and I do not propose to spend any time on that, you have heard her testify, you know what her demeanor was, and I am willing to accept your judgment as to whether or not she was frank; Kopp's testimony is corroborated and it is corroborated by Ostholthoff.

Now I want to say a word about that because it seemed to me that what happened here this morning or, rather, this afternoon was that Ostholthoff was politely called a liar, very politely, but none the less a liar. I do not see how Ostholthoff, an experienced FBI agent, could be mistaken on such an important matter. And that is particularly significant to me because you recall that Ostholthoff was not asked a single question on cross examination. Now he was here; he was offered for cross-examination. I say to you gentlemen if there is any question about what he testified to, why wasn't he examined on it? Why wasn't he asked a single question? And you saw an effort this morning to use Willis's cross examination, as it so seemed, to impeach Ostholthoff. There was ample opportunity to cross-examine Ostholthoff, and he was not asked a single question.

Now that is the specific proof of Cramer's intent, for to 866 member, if a man gives aid and comfort to people he knows are enemies, knowing they are enemies, he commits the crime of treason. That is intent. In other words he cannot disclaim intending to do what he knowingly did.

Now you have other proof, however, which has a bearing on intent, and this is the last line of the proof upon which I shall comment, and that is the proof of motive.

Understand, motive cannot change intent but it may be probative of intent or, in this case, corroborative of intent. Now thus, here, if Cramer were an otherwise completely loyal citizen who consorted with Thiel and Kerling in this manner, knowing they were enemies for the reason and motive of friendship only, he would nevertheless be guilty for he would have intentionally given aid and comfort, and his motive is immaterial once intent is established. However, here the proof goes further and shows that not only did Cramer knowingly give aid and comfort to Thiel and Kerling; but that he had a motive for wishing to advance in every way the success of their mission. This motive of Cramer's is abundantly shown by the evidence of his own writings.

Now on the writings I want to say this further word. Chiefly

we are dealing with three letters here, two letters in 1941, November 25th and December 3rd, and the letter of April 1942. Did you notice this morning how on the discussion of motives the April 1942 letter was discussed at one time and then after considerable intervals discussion on other topics, the two letters of 1941 were discussed, and the point was made, well, you can't convict a man for feeling this way before Pearl Harbor. Of course you can't, and of course we do not contend that you can. But we do say and have said throughout this trial, the motive is relevant to his state of mind and that these letters show his state of mind not only at the time they were written in 1941 but in conjunction with the letter of April 1942, the letter where he says he does not want to be misused by the American Army as a world conqueror; that in conjunction with that they show a continuing state of mind which never changed or varied from November 1941 to April 1942, and right through down to June.

Now in that connection you recall counsel read to you from an opinion of Judge Mayer's, in a case in this court, and I am going to read to you a very brief part that occurs below and after, separated by some detail, what counsel read to you. The Judge said:

"What I am endeavoring to do is to make clear that all of these events that preceded our declaration of war, viewed in their worst possible light, do not in any manner charge the defendant with any crime with which he may be here convicted, but that those events must be carried in mind in order that you may determine what on April 6th was the knowledge of Fricke as to Rodiger, and what was his intent after that in giving this money" etc.

I say to you that is exactly the connection in which we have presented this evidence, in order that you may determine from it what Cramer's knowledge and what was his intent in June 1942 when he had these dealings with these saboteurs which are the basis of this indictment. And, by the way, on that picture of Cramer as a pacifist, Cramer who did not want to be misused by the American Army as a world conqueror because he was a pacifist, well that might be all right if that letter stood alone. You see the danger of taking one part and forgetting about the others. If that letter stood alone it would make perfect sense, but it does not stand alone, and we know Cramer was no pacifist because we have his letter in 1941, in November or December. I do not at the moment know which one it was, but the one letter in which he says "I am living here much too pleasantly in view of the gigantic sacrifices which the glorious German army is making day by day for the homeland." Are those the words of a paci-

list? He was a pacifist in one direction only, and that was so far
 as serving in the United States Army was concerned. And
 869 you noticed Cramer conceded on his cross-examination here
 this morning that that business about world conqueror
 is the Axis propaganda line.

Now, gentlemen, that in sum is the Government's case. As I
 told you in opening and in this discussion of facts, I remind you
 again in closing, this crime must not be measured by its unsuc-
 cess. No failure or omission or lack of will or effort on the part
 of this defendant Anthony Cramer occasioned the defeat of
 this desperate venture. Unless we are to reward traitors for
 the vigilance and effectiveness of the Federal Bureau of Inves-
 tigation in tracking them down and bringing them to book, we
 must appraise the gravity of this offense from the standpoint
 of the successful completion by these saboteurs of their mission.
 We are entitled to have in mind what that would entail not only
 in terms of crippling our war effort by the destruction of vital
 industries, but in terms, as well, of loss of life and injury to war
 workers. No other appraisal of the importance of the offense
 is meaningful. Have in mind, too, that there is no guarantee
 while this war endures against a repetition of just what was
 attempted here, nor indeed is there any guarantee I know of that
 it has not already been repeated. This much we can be sure of,
 that whenever and wherever on our shores or in our coun-
 870 try such an attempt has been or is to be made again, it will
 be conceived and executed to depend for its success upon
 the Cramers and upon the assistance and cooperation, the aid and
 comfort to be rendered by just such persons as this defendant
 here. I fear that the High Command and the German Govern-
 ment know all too well who are the Cramers among our popu-
 lation. They know who are the disaffected individuals, men like
 this defendant, who have assumed the cloak of citizenship, availed
 themselves of all the benefits and privileges and protection which
 citizenship confers only to betray their sacred trust at the moment
 when their adopted country most needs the allegiance they have
 so solemnly sworn.

Cramer has had all the benefits of his citizenship, and among
 them this most recent one of a fair trial in the American manner
 before a just and impartial jury. His guilt has been demonstrated
 here by an overwhelming mass of competent, legally sufficient
 and legally admissible proof. Our responsibility in the case is
 ended. It now rests with you to say by your verdict whether this
 defendant is to be stamped a traitor, which he has been shown to
 be. I commend this case to you for your consideration with the
 utmost confidence in your verdict.

871

Charge of the Court

The COURT (GODDARD, J.). First I want to take this opportunity to express to Mr. Medina, Mr. Minton, and Mr. Jordan the very sincere thanks of the Court for having accepted the assignment by the Court to represent this defendant. You have faithfully and ably served this defendant.

Mr. MEDINA. May it please your Honor, I have a most distressing and disagreeable task and that is to object to the fact that you have mentioned that to this jury, and to take exception to your Honor's comment. It is something I do with the most extreme regret, but I honestly feel that my duty requires that I do it. I do not think the jury should have been told that. I have tried to keep it from them myself, and I have not mentioned it.

The COURT. I do not think any harm has been done.

Mr. Foreman, and members of the jury: The defendant, Anthony Cramer, has been indicted by the grand jury for the offense of treason, in violation of Section 1 of our Criminal Code. Now

872 in considering the case it is necessary to keep in mind the elements of treason, so I will read Section 1 to you, although you have heard it read perhaps several times. It reads as follows:

"Treason. Whoever owing allegiance to the United States levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason."

The indictment charges that the defendant Cramer, owing allegiance to this country, did adhere to the enemies of the United States, namely the government of the German Reich, and its representatives with which this country was then at war, and committed certain overt acts.

There were ten overt acts alleged in the indictment, but seven of them have been dismissed or withdrawn because there were not two witnesses to each overt act. And so there now remain three overt acts, 1, 2 and 10; and I will read those to you.

The grand jury charges the first overt act as follows:

"That Anthony Cramer, the defendant herein, on or about June 23, 1942, at the Southern District of New York and within the jurisdiction of this court, did meet with Werner Thiel and

873 Edward John Kerling, enemies of the United States, at the Twin Oaks Inn at Lexington Avenue and 44th Street, in the City and State of New York, and did confer, treat and counsel with said Werner Thiel and Edward John Kerling for a period of time for the purpose of giving and with intent

to give aid and comfort to said enemies, Werner Thiel and Edward John Kerling."

The second overt act is as follows:

"Anthony Cramer, the defendant herein, on or about June 23, 1942, at the Southern District of New York and within the jurisdiction of this Court, did accompany, confer, treat, and counsel with Werner Thiel, an enemy of the United States, for a period of time at the Twin Oaks Inn at Lexington Avenue and 44th Street, and at Thompson's Cafeteria on 42nd Street between Lexington and Vanderbilt Avenues."

The tenth overt act reads as follows:

"Anthony Cramer, the defendant herein, on or about June 27, 1942, * * * did give false information and make false statements regarding Werner Thiel, an enemy of the United States, to officers and agents of the United States, to wit, John G. Willis and A. E. Ostholthoff, Special Agents of the Federal Bureau of Investigation, Department of Justice, then and there engaged for and on behalf of the United States in investigating said Werner Thiel and his activities in the United States, said false information and false statements being in substance as follows, to wit, (1) That Werner Thiel's name was 'Bill Thomas'; (2) That from March 1941, until June 1942, Werner Thiel had been working in a factory on the West Coast of the United States; (3) That during the aforesaid period, Werner Thiel had not been out of the United States; (4) That the money belt given him by Werner Thiel in June 1942, had contained only a couple of hundred dollars which Werner Thiel had owed him; (5) That \$3,500 in his safe deposit box at the Corn Exchange Bank Trust Company, belonged to him and to no one else, had been obtained by him from the sale of his securities, and was kept by him in a safe deposit box because he considered it safer there than in his savings bank account; the aforesaid false information and false statements being given and made for the purpose of concealing the identity and mission of said enemy, Werner Thiel, and for the purpose of giving and with intent to give aid and comfort to said enemy, Werner Thiel."

Now this statute which the defendant is accused of violating is an ancient one and its enforcement is of vital importance to the entire nation. Congress makes the laws, but many of our laws depend for their enforcement upon the jurors to whom the facts are presented in each particular case.

Of course you have heard—I do not believe anybody here on this jury needs to be reminded of it, but I want to make sure of it—that under our law an indictment is not proof of guilt; it is an accusation. And everyone is presumed to be innocent until that presumption is replaced by proof of guilt beyond a reason-

able doubt, and that includes proof beyond a reasonable doubt of every element of the crime.

Unless you are satisfied beyond a reasonable doubt that the defendant's intention was to aid Thiel and Kerling, or either of them, as enemies of the United States and agents of the German Reich, the defendant must be acquitted.

Reasonable doubt does not mean a possible doubt or a fanciful doubt, but it means a doubt which is reasonable in view of the evidence or lack of evidence. It is a doubt which a reasonable person has after carefully weighing all the testimony. Now if,

after a careful consideration of the testimony you are convinced of the defendant's guilt, and such conclusion is one in which you would be willing yourselves to rely and act upon in the more important matters of your own private life, then it may be said that you have no reasonable doubt.

You have given, I am convinced, very careful consideration to the testimony and to the various witnesses as they appeared on the stand. You have observed their demeanor, their manner of testifying and their general character. You have heard the testimony, and you have heard it discussed at great length by counsel, and I shall not attempt to repeat it. It is for you and you alone to say what the facts in the case are.

The testimony of Burger and the testimony of the witnesses describing the events which took place in Germany and the landing of Kerling and Thiel in the United States, and what took place on Long Island and Florida, was received solely for the purpose of proving that Thiel and Kerling were enemies, and is not to be considered by you except on the question as to whether or not Thiel and Kerling were enemies, for that is a fact which the Government had to establish.

There are a good many letters and documents, and they will be made available to you later. If I, or counsel in referring to any testimony in the case, have stated testimony, and their recollection or mine differs from your recollection of the testimony, you are to follow your recollection, because, as I have said, you are the sole judges of the facts.

If you find that a witness has made a misstatement with the intention of misleading you, you may disregard not only that part of the witness's testimony, but so much of that witness's testimony as you do not believe. In other words, you may reject all of the witness's testimony if you find it unreliable, or you may accept part of it if you think it is reliable. Interest in the outcome of a case may create a motive for false testimony, and quite naturally the greater the interest the stronger the motive and the temptation to falsify. A defendant has a great interest in the outcome of a trial. But of course this does not mean that a de-

defendant will not or has not testified to the absolute truth. It only means that a jury should take into consideration this fact in weighing the testimony. And, I repeat, you are the ones to decide upon the credibility of a witness.

All citizens of the United States, whether born here or citizens by naturalization, owe a duty of allegiance to the United States, and they continue to owe this duty of allegiance even though they may have been born in another country with which this country is at war.

The uncontradicted proof is that Cramer was naturalized in 1936. On the breaking out of war between two nations, the citizens and subjects of the respective belligerents are deemed by the law to be the enemies of each other. Hence, when the United States is at war the term "enemy of the United States" applies to any of the subjects of the foreign power with which the United States is at war. Thus, at the present time and throughout June 1942, the time applicable to this case, all of the citizens and subjects of Germany were enemies of the United States, and of course all members of the German military or naval forces, and all agents and spies working on behalf of Germany, were enemies of the United States.

When war exists, any act which by fair construction is directed in furtherance of the hostile designs of the enemies of the United States and gives them aid and *and* comfort, or if that is the natural effect of the act, is an overt act of treason.

The words in the statute "adheres to their enemies, giving them aid and comfort" mean in general any act by one owing allegiance to the United States, clearly indicating a want of loyalty to that Government and sympathy with its enemies and which, by a fair construction, is directly and intentionally in furtherance of their hostile designs.

Merely expressions of opinion indicative of sympathy with the enemy, though sufficient to create the suspicion that the one expressing such opinion is at heart a traitor, are not alone sufficient to justify a conviction of treason. But if you find that under the rules of law which I have or will advise you that the defendant has, with the intention of aiding the enemy, committed one or more of the overt acts charged, then you should find the defendant guilty.

Before convicting the defendant you must be satisfied beyond a reasonable doubt that the several acts done by him were reasonably calculated to further the hostile designs of the German Reich and not merely calculated to aid and assist Thiel and Kerling as individuals. And if you find that the acts testified to were committed solely out of friendship for Thiel and Kerling, or

either, and without any intent or purpose to assist them in their hostile purposes, the defendant should be acquitted.

If you find that either Edward Kerling or Werner Thiel was an agent or spy of the German government, in this country for the purpose of assisting the German government in the prosecution of its war, or in hampering the United States in the prosecution of its war against the German government, and that the defendant knew or believed, and with such knowledge or belief assisted or attempted to assist either of them in any way which might be useful in their mission to this country, then he was adhering to them and giving aid and comfort to the enemy.

It is necessary for the Government to prove that the person, or persons aided and comforted by the defendant were enemies of the United States. It is also necessary for the Government to show that the defendant at the time he adhered to these enemies giving them aid and comfort, knew or believed that they were enemies.

A mere suspicion or conjecture that Kerling and Thiel were spies or agents of the German Reich, and thus enemies of the United States, is not sufficient to warrant a conviction.

It is not necessary for the Government to prove, although of course you may find that it so proved, that the defendant knew these persons were enemies, if it is shown that they actually were enemies and that the defendant believed them to be enemies.

It is not necessary for the defendant to have known any or all of the things which these alleged enemies intended to do, or any or all of the facts which the Government may offer in evidence in order to establish that they were in fact enemies.

It is only necessary that you find from the evidence that the defendant knew enough about them to believe that they were enemies.

Treason, of which this defendant is accused, can only be committed in time of war, so that statements made by the defendant before our declaration of war are not grounds for charging the defendant with treason. Prior to the entry into the war by the United States the defendant, as well as all others, had the right to his own opinion as to where his sympathies would be, and he had the right to express his opinions and to do anything lawful in keeping with his opinions and sympathies, but those statements should be borne in mind by you, as they may help you to determine what his intent was after this country was at war with the German Reich, in committing the various overt acts charged, if you find that he committed them.

In order to commit the crime of treason, the defendant must be shown to have committed one or more overt acts in further-

ance of a treasonable intent, and he must have entertained the treasonable intent at the time he committed the particular overt act.

The Constitution of the United States provides that no person shall be convicted of treason unless on the testimony of 882 two witnesses to the same overt act. This means that the

Government must prove at least one of the three overt acts charged in the indictment by the testimony of two witnesses. These witnesses must be direct witnesses to the overt act. Where the overt act is of a type which is separable into parts, that is, a continuance and composite act made up of several circumstances and passing through several stages, there must be two direct witnesses to each part of the act, but they need not be the same two witnesses who testified to other parts of the act, so long as each part of the overt act is supported by the testimony of two witnesses.

Proof of criminal intent and knowledge is sufficient if proved beyond a reasonable doubt, either by direct or substantial circumstantial proof. The two witnesses are not necessary for any facts to be proved, other than the overt acts.

Criminal intent and knowledge, being a mental state, are not susceptible of being proved by direct evidence, and therefore you must infer the nature of the defendant's intent and knowledge from all the circumstances. Circumstantial evidence is evidence which tends to prove a disputed fact, by proof of other facts and circumstances which have a legitimate tendency to lead the mind to conclusion that the fact exists which is sought to be established.

883 In considering the evidence you are entitled to and naturally will draw the reasonable inferences and conclusions from the evidence, whether it be direct statements of fact or circumstances. You may not have direct proof of a fact, but you may have circumstances from which you are able to draw reasonable conclusions and deductions.

Circumstantial evidence is entitled to as much consideration as you find it deserves, depending upon the inferences you think it necessary and reasonable to draw. The law makes no distinction between direct evidence of a fact and evidence of circumstances from which the existence of a fact may reasonably be deduced. Whether a fact is proved by circumstantial evidence or by direct proof is immaterial, for in either event it must be proved beyond a reasonable doubt.

The defendant's own conduct and words are the best index as to his intent, and you may infer from the defendant's conduct and words as shown in the evidence what his intent was.

Now at the request of the defendant I make the following charge:

In considering the evidence relating to the first and second overt acts alleged in the indictment, that is to say, the conversations on June 23rd in the Twin Oaks Inn and in Thompson's Cafeteria, there is no evidence other than the testimony of the defendant as to what was said in the conversations between the defendant and Thiel and Kerling, or either of them and, unless the jury find that these conversations were reasonably calculated to aid and comfort Thiel and Kerling as enemies of the United States, such conversations were not in furtherance of the alleged treason.

In connection with this first and second overt act I want to advise you that the indictment charges that the first overt act committed by the defendant was that on or about June 23, 1942, he met with Thiel and Kerling, enemies of the United States, at the Twin Oaks Inn and did confer, treat, and counsel with them for a period of time for the purpose of giving, and with intent to give, aid and comfort to said enemies. As far as the defendant's criminal intent is concerned, that is, his intent to give aid and comfort to the enemy, that may be proved by circumstances, and the two witness rule does not apply.

It is necessary, however, with respect to this first overt act, and also with respect to the second overt act which is similar and which relates to the defendant accompanying and conferring with Thiel on June 23rd at the Twin Oaks Inn and at Thompson's Cafeteria, for you to determine whether the fact that the defendant met and conferred with these persons as charged has been proved by two witnesses. If you find that it has been so proved, it is also necessary for you to determine whether Cramer's meeting and conferring with these persons in a public restaurant for a period of time would tend to encourage, advance, and further the hostile designs and interests of enemies of the United States. It is not necessary that the subject matter of the conversations in these restaurants be proved, because the indictment does not charge that the subject matter of the conversation is part of the overt act. The indictment in effect charges that meeting and conferring with Thiel and Kerling in a public restaurant for a period of time, under the peculiar circumstances of this case, was an overt act of treason, regardless of the subject matter of the conversation, and that is not material to determine what the conversation was about.

In considering whether or not this is so, you may consider as bearing upon the nature of the act what was the relationship of the parties at the time the conversation and the meeting took

place, what had taken place before between them, and any other circumstances constituting the conditions under which the act took place. Thus, you may consider what, if anything, Cramer knew about the other two men, what the other two men knew about Cramer, and what if anything had previously occurred between Cramer and Thiel which would tend to create between Cramer and Thiel any kind of relationship of mutual trust and confidence or otherwise, and whether such relationship, if it existed, gives significance to the act. Similarly, in considering the nature of the act, you may bear in mind, if you believe it to be a fact, that Cramer and Thiel had met and conversed on the previous night and made an appointment to meet on the night of the overt act.

At the request of the defendant I charge: If the jury finds that the defendant had no intention or purpose of assisting the German Reich in the prosecution of its war or in hampering the United States in the prosecution of its war against the German Reich at the time he did the several acts testified to, but did these acts solely for the purpose of assisting Kerling and Thiel, or either of them, as individuals, he must be acquitted.

Mr. MEDINA. Your Honor meant to say Kerling and Thiel there?

The COURT. Yes; I did.

Mr. MEDINA. That is to say, Kerling and Thiel, or either of them.

The COURT. Or either of them, as individuals.

887 With respect to the third overt act, No. 10, there is another of the defendant's request to charge: With respect to overt act No. 10, if the jury find that the defendant made false statements to the agent of the Department of Justice at the time of his apprehension for the purpose of concealing the name and whereabouts of Werner Thiel from the Selective Service authorities and not with the intent and purpose of rendering aid and comfort to Thiel as an enemy agent, knowing him to be such, such false statements do not constitute treasonable conduct.

Defendant's request No. 18: If the jury find that these false statements were prompted solely by the defendant's fear that he would be involved in some investigation by the Department of Justice and not made for the purpose of concealing Thiel's identity and whereabouts, knowing him to be an enemy agent, such false statements do not constitute treasonable conduct.

Now for the record I will state that I have charged the defendant's request 1, 3, 4, 5, 11. Requests Nos. 12, 13, 14, 15, 16 have fallen by the wayside as those overt acts to which they relate to have been withdrawn. I have charged requests Nos. 17 and 18.

Defendant's requests 2, 6, 7, 8, 9, 10 are denied, except as
888 covered in the main charge, with exceptions to the defendant.

Now gentlemen, motive should not be confused with intent. If the defendant knowingly gives aid and comfort to one who he knows or believes is an enemy, then he must be taken to intend the consequences of his own voluntary act, and the fact that his motive might not have been to aid the enemy is no defense. In other words, one cannot do an act which he knows will give aid and comfort to a person he knows to be an enemy of the United States, and then seek to disclaim criminal intent and knowledge by saying that one's motive was not to aid the enemy. So if you believe that the defendant performed acts which by their nature gave aid and comfort to the enemy, knowing or believing him to be an enemy, then you must find that he had criminal intent, since he intended to do the act forbidden by the law. The fact that you may believe that his motive in so doing was, for example, merely to help a friend, or possibly for financial gain, would not change the fact that he had a criminal intent.

On the other hand, proof of the defendant's motive may at times tend to shed light on his intent. For example, if you believe that the evidence shows that the defendant's motive and purpose was to help the German government and its representatives, then that would tend to prove at least that he also had the
889 required criminal intent and knowledge. But, as I have already stated, if you believe that that was not his motive, that does not mean that he may not have had a criminal intent.

You should also bear in mind that it is impossible, and indeed it frequently happens, for persons to act for more motives than one. Thus, there would be no inconsistency in your believing, if you thought the evidence justified it, that the defendant had two motives in acting as he did, one to help the German government and its representatives, and another of a more personal character, to aid a friend.

In short, regardless of what his motive was, the question to be determined is whether the defendant believed that the person he aided was an enemy at the time, and knew that his acts would give aid and comfort to that enemy, and intended that they should.

The question of possible punishment of the defendant in the event of a conviction is not a matter for the jury to consider, and should not in any way enter into your deliberations. The duty of imposing sentence on a defendant convicted rests solely upon the Court, who tries to exercise it fairly and with due consideration as to the extent of a defendant's activities, as well as all other circumstances. The function of the jury is to weight the

890 evidence and determine the guilt or the innocence of the defendant, solely upon the basis of the evidence.

If you find that the evidence respecting the defendant is as consistent with innocence as with guilt, the defendant should be acquitted. If you find that the law has not been violated by him you should not hesitate for any reason to render a verdict of acquittal. But, on the other hand, if you find that the defendant has violated the law as charged, you should not hesitate because of sympathy or any other reason to render a verdict of guilty as a clear warning to all that treason may not be committed with impunity. Those who risk their lives in our Army and our Navy, the people of the United States, are entitled to be assured of this.

There is only one count in the indictment. I do not want you to confuse that with overt acts. I merely wish to advise you that when you render your verdict you state whether you find the defendant innocent or guilty.

Defendant's exceptions to charge

MR. MEDINA. I respectfully except to that portion of your Honor's charge in which I understood you to say, with reference to the overt acts, of the meeting with Thiel or with Thiel and Kerling, that it was not necessary to know what the conversations were about.

I also except to your Honor's instruction with reference to 891 the two witnesses to the overt acts, it being my understanding that Your Honor charged that it was not necessary that there be two witnesses to each circumstance or each stage of the overt act.

THE COURT. I don't think I understood you clearly.

MR. MEDINA. Your Honor will recall that I submitted a written memoranda indicating—and I do not know whether you think it proper for me to discuss that now—those authorities.

THE COURT. No; not discuss it; merely take your exception. I want to understand what you except to.

MR. MEDINA. There are two views. I thought Your Honor in your charge, as I listened to it, accepted the view of one of those that I had thought was erroneous, and I want to state my objection to the way in which Your Honor charged that the two-witness rule was applicable.

THE COURT. Yes; I think I understand you. You disagree with the statement of the Court that if the overt act is separable into parts, that is, a continuing and composite act made up of several circumstances and passing through several stages, there must be

two witnesses to each part of the act. That is the part you object to.

Mr. MEDINA. I do. That is precisely the part.

892 The COURT. I so charged, and you make have an exception.

Mr. MEDINA. Thank you.

The COURT. Now, gentlemen, you may retire, and the exhibits will be gotten together and sent in to you.

(The two alternate jurors were excused.)

(At 5:40 p. m., the jury retired to deliberate.)

(A note was sent by the jury to the Court at 6:15 p. m., the note reading as follows: "The jury requests a copy of the minutes of the entire trial.")

The COURT. That is received from the jury [handing note to Mr. Correa].

Mr. MEDINA. They request a copy of the minutes of the entire trial. What is Your Honor's pleasure?

The COURT. I will call them in and read such portions as they wish. I do not think it is advisable to give them the minutes. Bring in the jury.

(The jury returned to the jury box at 6:17 p. m.)

The COURT. Mr. Foreman, I have this request from the jury, which reads as follows: "The jury requests a copy of the minutes of the entire trial." It is not permissible to send in the minutes to the jury, but any portion that you wish to have read will be read.

893 The FOREMAN. Well, that is what we had in mind, Your Honor. We wanted to go over Norma Kopp's testimony.

The COURT. Then you would like to have Norma Kopp's testimony read; is that it?

The FOREMAN. Yes, Your Honor.

The COURT. That will serve your purpose?

The FOREMAN. Yes.

The COURT. Mr. Reporter, will you read that testimony, please.

(Record read, beginning at page 338 with the direct examination of Emma Kopp, down to page 344, to the following:

"Mr. CORREA. The question is, if Your Honor please, as to the conversation"—)

The FOREMAN. That is all we want to hear, just down to there.

(The jury retired to continued its deliberation.)

(At 7:55 p. m. the jury returned to the courtroom.)

The CLERK. Members of the jury, please answer to your names? (Roll called.) Mr. Foreman and members of the jury, have you agreed upon a verdict?

The FOREMAN. Yes; we have.

The CLERK. How say you?

Verdict

The FOREMAN. We, the jury, find the defendant guilty as charged.

894. The CLERK. Members of the jury, listen to your verdict as it stands recorded in this issue joined, the United States against Anthony Cramer. You say you find the defendant guilty, and so say you all.

Mr. MEDINA. May the jury be polled, Your Honor?
(The jury was polled.)

Motion to set aside verdict and for a new trial

Mr. MEDINA. If Your Honor please, I move to set aside the verdict, and for a new trial, upon the ground that the verdict is contrary to the law on the facts, and without limiting the generality of the foregoing, on the ground that the following rulings by the Court in the course of the trial were erroneous and highly prejudicial to the defendant:

First, the admission into admission over defendant's objection of Government's Exhibit 55, being the copy of the Constitution of the United States from the issue of the New York Times of September 17, 1937, page 21:

Second, upon the admission into evidence over defendant's objection of the testimony of the witness Paul Powers, the minute man who testified as to the alleged refusal of the defendant to purchase United States War Bonds:

895. Third, upon the overruling by the Court of the defendant's objection to the question put to the defendant on cross-examination concerning statements made by the defendant's nephew Norbert in a letter written to the defendant by the said Norbert.

Fourth, upon the admission into evidence over defendant's objection of photographs of various explosives, caps, shells, and other materials allegedly brought to this country by the eight saboteurs who were tried by the military court in Washington, following the concession by the defendant that Werner Thiel and Edward John Kerling were enemy agents engaged on a mission of sabotage to this country.

Denial of motion to set aside verdict and for a new trial

The COURT. The motion is denied, Mr. Medina. I think the verdict is fully justified by the facts and by the law.

Mr. MEDINA. May I note an exception to Your Honor's denial of my motion.

The COURT. Yes, sir.

Mr. MEDINA. Thank you.

The COURT. Gentlemen of the jury, you are discharged with the sincere thanks of the Court.

(The jury left the courtroom.)

Mr. CORREA. If the Court please, on the matter of sentencing, the Government requests that sentence be set down, my suggestion would be, a week from today.

896 The COURT. Yes; that is what I had in mind, a week from today.

Mr. CORREA. And the defendant be remanded meanwhile.

The COURT. Yes.

Mr. CORREA. He is already in custody.

Mr. MEDINA. That is at 10:30 a week from today?

The COURT. Yes, Mr. Medina.

Mr. MEDINA. Thank you.

The COURT. That would be November 25th. Now let me see about the room. I am not sure it will be in this room.

Mr. CORREA. I would suggest, your Honor, that we set it provisionally for this room, and if it is not available we will undertake to notify counsel where it will be.

The COURT. I will set it down for November 25th at 10:30 in this room. Meanwhile the defendant is remanded.

[Title omitted.]

897

NEW YORK, December 2, 1942;

10:30 o'clock, a. m.

Sentence

The CLERK. In the matter of Anthony Cramer, for sentence. Are you ready, gentlemen?

Mr. MEDINA. Ready.

Mr. CORREA. The Government is ready, if your Honor please.

Mr. MEDINA. May it please your Honor, I do not know whether you feel that it is appropriate to have anything said at this time, but I should like to address you very briefly if you think it proper that I should do so.

The COURT. It is quite proper, Mr. Medina.

Mr. MEDINA. Now of course I realize that with the care your Honor followed the trial and with your Honor's disposition to consider every angle of all situations before you, I may take it for granted that every argument that may be presented here, both on the Government's side and on behalf of Mr. Cramer, has been given due consideration by your Honor, and I do assume that.

898 And I assume also that your Honor has studied with care the memorandum which we submitted. I only wish to do this one thing, and that is to remind your Honor of a phrase in Your Honor's instructions to the jury which left a very lasting

impression upon me. That was when you told them that they had no part in the punishment to be imposed, that that was something that rested in your Honor's discretion. And then you added that they might assume that you would exercise that discretion with due consideration for the extent of the defendant's activities and all other circumstances, and I think really that I may with confidence submit to your Honor that the circumstances here warrant your Honor exercising a merciful consideration towards this defendant's situation, and I beg of your Honor to do that. Thank you.

Mr. CORREA. May I be heard, if your Honor please?

The COURT. Yes, Mr. Correa.

Mr. CORREA. If Your Honor please, it is the practice of our court for the Government to make a recommendation on sentence. That is not always a pleasant duty. I should say in a case of this importance that a case where the maximum sentence which may be imposed is as serious as here I feel, nevertheless, it is the duty of the United States attorney to make a recommendation to the Court, while recognizing the responsibility for sentence is primarily that of the Court. Accordingly we have given 899 most serious consideration to the problem and our recommendation upon this sentence.

Of course the importance of the matter cannot be exaggerated. I think the evidence adduced at the trial demonstrates that beyond any need of argument of the fact to your Honor. Here in time of war we are faced with evidence of what was tantamount, as we called it, I believe, at one point during the trial, to a secret armed invasion of the United States; and I think even more appalling, again as I have stated in the trial, is the fact which is shown by this evidence that in carrying out this desperate plan reliance was placed upon the cooperation, the aid, and assistance of disaffected loyal persons over here, including—and this is to me the most appalling aspect of the case—persons who had sworn loyalty to this country and been given the high privilege of citizenship in our country.

Your Honor will recall that that was the inference from the evidence which we argued to the jury and urged throughout the trial. It has since appeared in another case from the testimony of the same witness who has testified in the Cramer case further that that is the fact—that is, that certain of these eight saboteurs who came over here were instructed to communicate with particular individuals over here and did so communicate with them.

900 As far as the defendant Cramer's participation in what was done here is concerned, of course we have this—that the plan even as to the eight saboteurs was ripped in the bud.

And that was true not only as to their plans, but true as well of the participation of such persons as this defendant Cramer. That, as I have had occasion to say before and on every occasion, redounds everlastingly to the credit of the Federal Bureau of Investigation. We nipped this plot aborning as it were and saved our country incalculable damage. But the fact remains that while the matter flourished Cramer did all he could. The evidence has dispelled any suggestion that Cramer's participation in this thing was casual or due to some fortuitous meeting with an old friend. I have in mind particularly the fact not only of his secretion of the money belt and the money and all of that, but the fact that he apparently planned to continue with Thiel. After Thiel was apprehended he came down night after night looking for Thiel and trying to reestablish the contact with him which had been broken by Thiel's arrest.

The point has been made in the memorandum which has been submitted by counsel for the defendant Cramer that Cramer did not have the traitorous and treasonable mind and motive
901 that is a requisite to the worst type of the crime of treason, and that what he did he did actuated by friendship for Werner Thiel. Again it seems to us that the evidence does not support that theory; that the evidence of Cramer's own writings indicate that he did have a disloyal mind as far as this country is concerned and as far as its war effort is concerned, and that his prime loyalty at all times, although he owed allegiance to this country, was to our enemy Germany.

Now the problem of sentence in this case, if your Honor please, is not one it seems to me of punishment alone. All-important in any consideration of the sentence to be imposed here, in our view, is the deterrent effect which that sentence will have. We are still in war. We cannot fool ourselves that these attempts will not be repeated. We have no assurance even that they have not been. We know this—that whenever and wherever they have been or are to be repeated they are going to depend for their success upon just such persons as this defendant here. In the nature of things they must. The Federal Bureau of Investigation does its job well, and has done its job exceedingly well in this case. Our other agencies engaged in law enforcement and in the apprehension of this kind of malfactor have done well. But all of their work is set at naught unless all persons who are in a similar
902 position to the position in which this defendant was at the time he was first approached on this matter, are made to realize that swift and certain retribution will follow any engagement by them in this kind of activity. And our experience has shown as well—and when I say our experience I cite not only our experience, the experience of our office, but the experience as

well of the Federal Bureau of Investigation as it has been told to me by its responsible officers—that a prison term does not act as a deterrent to persons of this mind and character. That is due partly I suppose to the fanaticism with which they cling to the new order, or however you may characterize the basic principle and philosophy of our enemies. It is due partly to the fact that the belief exists among such persons that any prison term, no matter what its duration, really means imprisonment for the duration of the war.

Now if this is true, and it is established by the experience of the investigative agencies and law enforcement agencies which it seems to me is not controvertible, it follows that the only penalty which will perform the function and office of helping safeguard against a repetition of this offense at other times throughout this war is the extreme penalty provided by the statute in this case.

I know it is a favorite theme of our enemies and
903 their propagandists that democracies are soft and incapable of dealing with ruthless aggression. As a matter of fact it is just that preachment which they use to encourage such of their failures as these in acts of this kind. If they mean by "soft" that the democracies, this democracy at least, is unwilling to take men out and shoot them without the semblance of a trial, I readily agree we are soft; and I think this case illustrates it well, for this man certainly had every benefit of a fair and impartial trial and the benefit of able counsel to defend him throughout that trial. On the other hand if it is meant we are soft in the sense of being unable to mete out adequate punishment for crimes of this kind, it seems to me our very national existence depends on our ability to repudiate that charge. Here I feel punishment by the extreme penalty provided by the statute is adequate. At a time like this, when this country is asking millions of its men to risk their lives and not a few of them to give their lives; and they are doing it cheerfully, it seems to me neither injustice nor undue severity to ask that one who has betrayed that country pay with his life—and this not as a matter of vengeance or punishment, but simply and solely to send the stern warning to all who may be similarly tempted that if they have anything to do with an enemy agent they take their lives in their own hands.

904 If your Honor please, the Government recommends the defendant be sentenced to death.

The Court. I hardly need assure you, Mr. Correa, and Mr. Medina, I have given very earnest consideration to the proper sentence in this case. I shall not impose the maximum penalty of death. It does not appear that this defendant Cramer was aware that Thiel and Kerling were in possession of explosives or

other means for destroying factories and property in the United States, or planned to do that.

From the evidence it appears that Cramer had no more guilty knowledge of any subversive purposes on the part of Thiel or Kerling than a vague idea that they came here for the purpose of organizing pro-German propaganda and agitation. If there were any proof that they had confided in him what their real purposes were, or that he knew or believed what they really were, I should not hesitate to impose the death penalty.

The sentence of the defendant Cramer is that he be committed for a term of imprisonment of 45 years, which at Cramer's age is substantially equivalent to a sentence for life; and sentenced to pay a fine of \$10,000; and he is remitted to the custody of the Attorney-General of the United States or his authorized representative who shall designate the place or places where the sentence shall be served. Defendant to stand committed until the fine is paid.

905

Requests to charge on behalf of defendant

1. Unless the jury are satisfied beyond a reasonable doubt that it was the defendant's intention and purpose to aid and comfort Werner Thiel and Edward Kerling, or either of them, as enemies of the United States and agents of the German Reich, the defendant must be acquitted.

2. Unless the jury are satisfied beyond a reasonable doubt that the defendant Cramer knew that Kerling and Thiel, or either of them, was an agent or a spy of the German Reich at the time he did the several acts testified to and that he did the several acts for the purpose and with the intent of assisting the German Reich in the prosecution of its war or in hampering the United States in the prosecution of its war against the German Reich, the defendant must be acquitted.

3. If the jury find that the defendant had no intention or purpose of assisting the German Reich in the prosecution of its war or in hampering the United States in the prosecution of its war against the German Reich at the time he did the several acts testified to but did these acts solely for the purpose of assisting Kerling and Thiel, or either of them, as individuals, he must be acquitted.

4. The jury must be satisfied beyond a reasonable doubt that the several acts done by the defendant were reasonably calculated to further the hostile designs of the German Reich and not merely calculated to aid and assist Kerling or Thiel as individuals.

906 5. If the jury find that the defendant committed the acts testified to here out of friendship for Werner Thiel and

Edward Kerling, or either of them, and without any intent or purpose to assist them in their hostile purposes, he must be acquitted.

6. The several acts of the defendant must have been committed with an actual knowledge of the fact that Kerling and Thiel, or either of them, were in fact agents and spies of the German Reich. A mere suspicion or conjecture that they might have been spies or agents of the German Reich and thus enemies of the United States is not sufficient to warrant a conviction.

7. In order to convict the defendant the jury must find that the defendant's acts and conduct were the result, not of negligence or thoughtlessness, but were inspired by a definite intent and purpose to assist Thiel and Kerling, or either of them, in the prosecution of their mission to this country.

8. This defendant is accused of treason. Treason can only be committed in time of war. Prior to our entry into this war this defendant, as well as every other man, as a matter of law, had a right to his own opinion as to where his sympathies would be and he had a right to do anything lawful in that connection and whatever sympathies he may have had for Germany prior to this country's entry into the war should not be considered by the jury as any evidence of treasonable intent.

907 9. Letters or statements made by the defendant before this country's entry into the war, insofar as they may have indicated sympathy or preference for Germany or any criticism of this country's policy with respect to the war, were, as a matter of law, entirely lawful and proper and the jury should not consider such letters or statements as any evidence of treasonable intent.

10. In order to commit the crime of treason the defendant must be shown to have committed overt acts in furtherance of a treasonable intent and he must have entertained the treasonable intent at the time he committed the particular overt act. Each overt act must be proven by the testimony of at least two direct witnesses to the whole overt act.

11. In considering the evidence relating to the first and second overt act alleged in the indictment, that is to say, the conversations on June 23rd in the Twin Oaks Inn and in Thompson's Cafeteria, there is no evidence other than the testimony of the defendant as to what was said in the conversations between the defendant and Thiel and Kerling or either of them and, unless the jury find that these conversations were reasonably calculated to aid and comfort Thiel and Kerling as enemies of the United States, such conversations were not in furtherance of the alleged treason.

12. With respect to the third overt act, alleging possession and concealment for safekeeping of a money belt belonging to Thiel, unless the jury are satisfied that such possession or concealment was knowingly carried out with the intention of promoting the hostile conduct of Thiel and not merely because of friendship or because he thought he might thereby more readily secure the payment of the indebtedness which Thiel owed him, then and in that event such overt act was not in furtherance of the alleged treason.

13. With respect to the fourth overt act, alleging possession and concealment for safekeeping of \$160 belonging to Thiel, unless the jury are satisfied that such possession or concealment was knowingly carried out with the intention of promoting the hostile conduct of Thiel and not merely because of friendship or because he thought he might thereby more readily secure the payment of the indebtedness which Thiel owed him, then and in that event such overt act was not in furtherance of the alleged treason.

14. With respect to the fifth overt act, namely, the writing of a letter to Norma Kopp, if this letter was written for the purpose of procuring a contact between Thiel and Norma Kopp solely for social or romantic purposes and not for the purpose of aiding and assisting Thiel in the commission of any hostile acts against the Government of the United States, such overt act was not done in furtherance of the alleged treason.

(15. With respect to the sixth and seventh overt act, a charge is requested similar to that requested in the case of overt act No. 3.)

(16. With respect to overt act Nos. 8 and 9, a charge similar to that requested with respect to the fifth overt act is respectfully requested.)

17. With respect to overt act No. 10, if the jury find that the defendant made false statements to the agents of the Department of Justice at the time of his apprehension for the purpose of concealing the name and whereabouts of Werner Thiel from the Selective Service authorities and not with the intent and purpose of rendering aid and comfort to Thiel as an enemy agent, knowing him to be such, such false statements do not constitute treasonable conduct.

18. If the jury find that these false statements were prompted solely by the defendant's fear that he would be involved in some investigation by the Department of Justice and not made for the purpose of concealing Thiel's identity and whereabouts, knowing

him to be an enemy agent, such false statements do not constitute treasonable conduct.

(See: *United States v. Fricke*, 259 Fed. 673; *United States v. Robinson*, 259 Fed. 685.)

909-a [Clerk's certificate to foregoing statement of evidence omitted in printing.]

910 In United States District Court

[Title omitted.]

Order settling bill of exceptions and filing record.

March 22, 1943

Upon the annexed stipulation of the United States District Attorney and the attorneys for the defendant, it is

Ordered that the defendant's bill of exceptions, consisting of a typewritten set of the minutes of the proceedings in the Southern District Court, typewritten copies of the statement under Rule 13, notice of appeal, Clerk's list of exhibits, Clerk's certificate, all necessary orders, assignment of errors, the indictment and a stipulation dispensing with the printing of exhibits be, and the same hereby is, settled and allowed and that said papers may be filed for use by the Clerk of this court in certifying a record on appeal.

Dated: New York, March 22, 1943.

HENRY W. GODDARD,

United States District Judge.

911 In United States District Court

[Title omitted.]

Stipulation as to record on appeal.

March 19, 1943

It is hereby stipulated by and between the United States District Attorney and the attorneys for the defendant that the annexed set of stenographer's minutes, consisting of three volumes, is a true and correct transcript of the proceedings of the Southern District Court in the above-entitled cause and that said minutes, together with typewritten copies of the statement under Rule 13, notice of appeal, Clerk's list of exhibits, Clerk's certificate, all necessary orders, assignment of errors, indictment and a stipulation dispensing with the printing of exhibits may be filed with the

Clerk of the Southern District Court pursuant to the annexed order of Hon. Henry W. Goddard.

Dated: March 19th, 1943.

MATHIAS E. CORREA,
United States District Attorney.

HAROLD R. MEDINA,
Attorney for Defendant.

JOHN MCKAIN MINTON, JR.,
Attorney for Defendant.

912 [File endorsement omitted.]

913 In United States District Court

[Title omitted.]

List of Exhibits.

Filed March 22, 1943

GOVERNMENT'S

No. of Exhibit	
1 and 2	Naturalization records from District Court, Northern District of Indiana.
3 to 10 inc.	Photographs of eight saboteurs.
11 to 27 inc.	Photographs of explosives, fuses, and other materials in the possession of the saboteurs.
28a	Photograph of four overseas caps.
29a	Photograph of a cap.
30	A shovel.
31a and 32a	Photographs of shovels in possession of saboteurs.
33a	Photograph of Burger's money belt.
35	Kerling's money belt.
36	Photostat of outward bound manifest, Bureau of Immigration, July 11th, 1940.
37	Photostat of incoming manifest, Bureau of Immigration, July 27th, 1925.
38	Photostat outward bound manifest, Bureau of Immigration, June 14th, 1936.
39	Incoming manifest, Bureau of Immigration, September 12th, 1936.
40	Visa Werner Thiel, Bureau of Immigration, April 26th, 1927.
41	Visa Edward Kerling, Bureau of Immigration, March 5th, 1929.

No. of exhibit

- 42 to 53 inc. Records from Mayflower Hotel, Jacksonville, and Commodore Hotel, New York City, and Hotel Seminole, Jacksonville.
- 54 Photograph of Norma Kopp.
- 55 Page 21 from the issue of the "New York Times" for September 17th, 1937.
- 55a Handwriting standard.
- 56 Torn note to Werner Thiel found in defendant's waste paper basket.
- 57 to 62 inc. Post cards found in defendant's room, with translations.
- 914 63 Letter from defendant to Hubert Thielmann, dated April 21, 1942.
- 63a Translation of Exhibit 63.
- 64 Post card with translation.
- 66 Slip of paper containing figures and endorsement of defendant.
- 67 Note from defendant to Werner Thiel at Hotel Commodore, dated June 27th, 1942.
- 68 Letter from defendant to Werner Thiel, dated November 25, 1941.
- 68a Translation of Exhibit 68.
- 69 Letter from defendant to Heinrich Cramer, dated December 3, 1941.
- 69a Translation of Exhibit 69.
- 70 Receipt for payment on safe deposit box, Corn Exchange Bank.
- 71 Record card, Corn Exchange Bank.
- 72 Signature card, Corn Exchange Bank.
- 73 Handwriting standard Werner Thiel.
- 74 Handwriting standard Edward John Kerling.
- 75 Note from defendant to Norma Kopp.
- 76 Page 30 of the issue of the "New York Times" of June 28th, 1942.

DEFENDANT'S EXHIBITS

- A Money belt found in defendant's room.
- B Diagram of defendant's room drawn by Agent Carden.
- C Written statement of defendant made to FBI.
- D Letter from Norma Kopp to defendant dated June 15th, 1942.
- F Page from small blue book belonging to defendant containing figures.
- G Envelope of Steiner-Rouse & Company.

915 [File endorsement omitted.]

916 In United States District Court

[Title omitted.]

Notice of appeal

Filed March 22, 1943

Name and address of appellant, Anthony Cramer, Federal Detention Headquarters, 427 West Street, New York City.

Names and addresses of appellant's attorneys, Harold R. Medina, 165 Broadway, New York City, and John McKim Minahan, Jr., 295 Madison Avenue, New York City.

Offense, Treason (United States Criminal Code, § 14).

Date of judgment, December 2, 1942.

Brief description of judgment or sentence, forty-five years and \$10,000 fine.

Name of prison where now confined, if not on bail, Federal Detention Headquarters, 427 West Street, New York City.

I, the above-named appellant, hereby appeal to the United States Circuit Court of Appeals for the Second Circuit from the judgment above-mentioned on the grounds set forth below.

ANTHONY CRAMER,

Appellant.

Dated: December 3, 1942.

GROUND OF APPEAL

1. The Court erred in admitting into evidence, over defendant's objections, Government's Exhibit 55, being a copy of the Constitution of the United States from the issue of the New York Times of September 17th, 1937, page 21.

917 2. The Court erred in admitting into evidence, over defendant's objection, the testimony of the witness Paul Poyers, the minuteman who testified as to the alleged refusal of the defendant to purchase United States War Bonds, and in denying defendant's motion to strike out such testimony.

3. The Court erred in overruling the defendant's objection to the question put to the defendant on cross-examination concerning statements made by the defendant's nephew, Norbert, in a letter written to the defendant by the said Norbert.

4. The Court erred in admitting into evidence, over defendant's objection, photographs of various explosives, caps, shovels, and other materials, allegedly brought to this country by the

eight saboteurs who were tried before the Military Court in Washington following the concession by the defendant that Werner Thiel and Edward John Kerling were enemy agents engaged on a mission of sabotage to this country.

5. The Court erred in denying the defendant's motion to dismiss the indictment, made at the close of the Government's case.

6. The Court erred in denying defendant's motions to withdraw from the consideration of the jury overt acts numbers 1, 2, and 10 and each thereof.

7. The Court erred in denying the defendant's motion for the direction of a verdict of acquittal, made at the close of the entire case.

8. The Court erred in denying the defendant's motion to set aside the verdict and for a new trial.

9. The Court erred in denying the defendant's motion for a mistrial, made in connection with the question put to the defendant on cross-examination concerning statements made by the defendant's nephew, Norbert, in a letter written to the defendant by the said Norbert.

10. The Court erred in refusing to grant defendant's requests to charge Nos. 2, 6, 7, 9, 17, and 18.

11. The Court erred in charging the jury with respect to the requirement of proof of each overt act by two witnesses.

919 [File endorsement omitted.]

920 In United States District Court,

[Title omitted.]

Assignments of error

Filed March 22, 1943

The following are the assignments of errors of the defendant appellant:

1. The Trial Court erred in refusing to strike out the testimony of the witness Paul Powers, as follows (Steno. Min., pp. 337-8):

"Q. Did you have a conversation with him?—A. I did.

Q. Will you give us the conversation?—A. I told him I was representing the United States Government on a pledge drive, if he would care to sign a pledge for a bond. He was not interested. I asked him if he would sign up for a stamp. He said he was not interested.

Q. Anything further said by either of you?—A. No; and he closed the door.

Q. Directing your attention to what he said, did he say anything about a ten-cent stamp?—A. He said he was not even interested in the purchase of a ten-cent stamp.

Q. Then he closed the door?—A. That is right.

Q. Was there a bell at this apartment door, or did you knock?—A. I knocked.

Q. Now after he closed the door did you knock again?—A. I did.

Q. What occurred?—A. Knowing there was other roomers in there, I thought I could get to them. He opened the door again and closed the door.

Mr. BURKE. That is all.

Mr. MEDINA. No questions. I move to strike out the entire testimony of this witness as irrelevant and of no probative force whatever on any of the issues in the case.

The COURT. I think I will let it stand, Mr. Medina.

Mr. MEDINA. I respectfully except.

921 2. The Trial Court erred in overruling the objection to the following question, and in refusing to strike out the answer thereto (Steno. Min., p. 600) and in receiving into evidence Government's Exhibit 55 (Steno. Min., p. 612):

Q. Isn't it a fact, sir, that at one time you were particularly interested in the law of treason?—A. No, sir, I have never been interested in that.

Mr. MEDINA. I object to that question, your Honor, so that the record may be clear, and move to strike out the answer. I think your Honor realizes from some statements I have made to you that we are approaching now a matter of considerable significance and I want my record clear.

The COURT. I take it that there is some question of law you would like to discuss?

Mr. MEDINA. Yes, your Honor.

Mr. CARRA. I am going to attempt to impeach the witness on his last answer, Judge. I won't make a specific offer of proof, or I won't if counsel has objection, I will put it that way, until your Honor has ruled.

The COURT. I will excuse the jury so that the matter may be discussed.

The COURT. If it is shown, as you say it has been, that those marks were put on it by the defendant and it was found in his room, I shall admit it as material and relevant.

Mr. MEDINA. And I take it your Honor does not admit it because Mr. Cramer said he had not studied law and had not studied up the law of treason.

The COURT. I am not going to limit the grounds on which I receive it.

Mr. CORREA. The foundation question, Judge, was this: You were particularly interested in the law of treason, were you not; to which the witness said, No.

Mr. MEDINA. Well, I objected, your Honor, you remember, to that question, and I moved to strike out the answer.

The COURT. The motion is denied.

Mr. MEDINA. Exception.

Mr. CORREA. I offer in evidence Government's Exhibit 55 for identification.

922 Mr. MEDINA. I object to that as irrelevant and immaterial, as having no probative force whatever; and upon the further ground that if it should be deemed to have any slight probative value that is far outweighed by its atmospheric value which I claim will be highly prejudicial. It is irrelevant and should be excluded.

The COURT. That is Exhibit 55 for identification, and also 55-A—

Mr. CORREA. In evidence, which was offered without limitation. In other words this is reoffered.

Mr. MEDINA. I object to both, as they relate to the same thing, and I have already stated the grounds of my objection. Your Honor.

The COURT. They are received in evidence.

Mr. MEDINA. I respectfully except.

(Government's Exhibits 55 for identification now marked in evidence.)

3. The Trial Court erred in overruling the defendant's objection to the following question and in refusing to strike out the answer thereto (Steno. Min. pp. 653-4):

Q. Now, sir, during the year 1941 didn't you receive letters from your nephew Norbert?—A. Yes, sir.

Q. Now isn't it the fact, sir, that Norbert's father—that was your brother, wasn't it?—A. That is right.

Q. Through Norbert warned you that your letters discussed the United States in such an unfriendly fashion that Norbert's father feared that you would be put on the black list, because according to him the letters went through an American censorship.

Mr. MEDINA. I object to that question as improper, and that the very wording of the question is such that I move for a mistrial.

The COURT. Motion denied.

Mr. MEDINA. What is Your Honor's ruling?

The COURT. The motion is denied.

Mr. MEDINA. Exception. What is Your Honor's ruling on my objection?

The COURT. Overruled.

Mr. MEDINA. Exception. These are letters from someone else, and I claim they are not binding upon the defendant. Your Honor realizes that, I take it.

923 By Mr. CORREA:

Q. Do you have the question?—A. Yes, sir. If there was any purpose behind it, I have been trying to show that we still have freedom of the press and thought in the United States.

Mr. CORREA. I move to strike the answer, and ask that the question be read and the witness be directed to answer it responsively.

The COURT. (to witness). Can't you answer that directly? Answer that question directly.

The WITNESS. Whether it was hostile or whether it was friendly or—

Mr. MEDINA. No; the question is whether you got letters which said that.

The WITNESS. Well, I have received a letter from my nephew Norbert which mentions that I admit that.

Mr. MEDINA. I move to strike out the answer upon the grounds on which I objected to the question.

The COURT. The motion is denied.

Mr. MEDINA. Exception.

4. The Trial Court erred in receiving into evidence Government's Exhibits 11 to 27, inclusive, and in overruling the defendant's objection to the testimony of the witness D. J. Parsons, as follows: (Steno. Min., pp. 77-92 inc.):

"Q. Now you referred to Edward Kerling. I show you a photograph which has heretofore been marked 'Government's Exhibit' for identification and ask you whether or not that is a picture of the man to whom you refer as Edward Kerling [handing]?—

A. Yes, sir.

Mr. CORREA. Now, if Your Honor please, in connection with the further testimony of this witness concerning these materials, I should like to offer at this time these photographs 11 to 27 for identification, in evidence.

Mr. MEDINA. May it please the Court, I should like to state our position, as to this. We object to them and we will object, as I indicated in my opening, to similar proof, and with Your Honor's permission I should like to elaborate the basis for my objection.

The COURT. I think I understand it. You have made the point before.

924 Mr. MEDINA. Well, we do not wish to urge it except on general terms, if your Honor does not wish me to, but I think it a rather important point from the standpoint of the defense, and if you think that elaboration of it in the presence of the jury might be prejudicial to the Government I shall be very glad to have the jury withdraw.

The COURT. I do not know whether it would be prejudicial to either side or helpful to either side. I look at it as a question of law.

Mr. MEDINA. All I wish to do is place my point on the record, your Honor, and I don't want to do it in a way that is, in any sense objectionable. On the other hand I do think it is important and my right to place the position that we have plainly on the record so that I may not need to be getting up again and again when a similar thing is produced.

The COURT. You may do so. State the grounds of your objection. I don't think we need to go into an extended argument.

Mr. MEDINA. And I shall not do that. Now we object to them as incompetent, irrelevant, and immaterial.

The COURT. I would suggest that you just state your grounds simply.

Mr. MEDINA. I shall try to, your Honor; we object on the ground that the evidence is irrelevant, immaterial, and incompetent, and specifically upon the ground that in view of the concession made here, and in view of the proof by the witness Burger, which would seem to cover the field thoroughly and comprehensively, we believe that evidence as to such details as appear in these photographs and other similar evidence that may be produced a little later, will have an amount of effect out of all proportion to its true judicial worth and will be prejudicial to the defendant; it will confuse the issues and it will get inevitably the minds of the jurors away from what is the central and simple issue; and is bound, particularly when accumulated here, to do so. We have a large number of photographs; there are many other things of a similar character that will be produced, and the effect of all that will be to accumulate, as it seems to us, prejudicial matter on the grounds that I have stated.

And, of course, as Mr. Minton calls to my attention, too, there is no pretense or claim that the defendant had anything to do with these matters. He came in, according to the concession made by Mr. Correa in his opening, at a later time. If there were some contention that he was connected with this scheme or this plot, it would be different, but there is no such claim.

925 Mr. CORREA. If your Honor please, I should like to reply particularly to that last, which I think is a misapprehension of the Government's position. First, the material is offered at this time, subject to connection it is true, in that we will establish that this is the material which was brought over by the group of which Edward John Kerling and Werner Thiel were members, and we will connect specifically Edward John Kerling and Werner Thiel with the defendant Cramer as being the enemies of the United States that Cramer aided. I might point out that at the very time Cramer was aiding these enemies of the United States, this material was secreted, as the proof of this witness shows, in the sands of Florida, and secreted there for use by the selfsame enemies of the United States, Werner Thiel and Edward John Kerling, who, as our proof will demonstrate, the defendant Cramer was aiding.

I submit there is no concession whatever by the Government, far from it, that Cramer is not connected with this plan. Our contention is that Cramer is very closely identified with the plan in giving aid and comfort to the men who put this material here with the intention of using it.

Mr. MEDINA. If your Honor please, Mr. Correa's statement is exactly what I claim he said. They do not claim Mr. Cramer had any part in this planning over in Berlin, or had any contact with these men as they got off of this submarine or participated in the plot and scheme there. Mr. Correa merely claims that later Mr. Cramer had to do with Thiel and Kerling in New York; not that he had any participation in any of this plot, and so we most earnestly urge the objection upon your Honor.

Mr. CORREA. I point out, if your Honor please, that at the time Cramer had to do with Thiel and Kerling in New York, what counsel chooses to call a plot or plan, whatever he wishes to call it, was still under foot. The very material we are discussing here, and we are not discussing something in Berlin but in the sands on the coast of Florida, waiting there to be used; neither Kerling nor Thiel had been apprehended and the gravamen of Cramer's offense was in that he aided and comforted them in furtherance of that purpose which was to use this material, and I think we are entitled to show what the material was and how it could be used.

The COURT. I think they should be received, Mr. Medina.

926 Mr. MEDINA. I respectfully except.

The COURT. There is one point I would like a little explanation about. You objected on the ground that they were incompetent. Did you mean there was a lack of proof?

Mr. MEDINA. No; I do not object on the ground that the photographs have not been properly identified. I might well object

upon that ground but I do not. I do not raise any such point as that.

The COURT. Then there is nothing in your objections on the ground that they are incompetent.

Mr. MEDINA. Well, I use that general phrase that we lawyers are so accustomed to, just as a sort of catch-all, but with no endeavor to raise the technical question of lack of identification of the photograph.

The COURT. I did not want to be caught in that category.

Mr. MEDINA. No. I would never have claimed any such thing as that.

Mr. CORREA. I take it it is understood, Judge, because this is one case where I think we are disabled from bringing the original exhibits here.

Mr. MEDINA. May I note my exception to your Honor's ruling? (Government's Exhibits 11 to 27 inclusive for identification received in evidence.)

(Short recess.)

By Mr. CORREA:

Q. Now, sir, one question first: You said the point at which you found this material was about 4.3 miles—A. 4.3 miles.

Q. From Ponte Vedra.—A. From Ponte Vedra beach.

Q. How far was it from Jacksonville, Florida.—A. Just a little over thirty miles.

Q. And after the material was found on the beach did you there, or subsequently at some other place, make a further examination of it?—A. I did.

Q. And did you make an examination with a view to ascertaining the quality and nature of the materials found there?—A. I did.

Q. By the way, in what form was the material at the time you found it? That is, was it packaged in any way?—A. It was. All of the material was contained in four wood boxes which were bound with metal strips.

Q. And you subsequently made an analysis of that at the laboratory; is that correct?—A. I did.

927 Q. Will you tell us generally what materials there were in there; that is, if you would list the kinds of materials that were contained in those four boxes or packages?

Mr. MEDINA. I renew the objection that I made a few moments ago, your Honor, on the same grounds.

The COURT. The same ruling.

Mr. MEDINA. Exception.

A. There were in the four boxes blocks of trinitrotoluol, or TNT, as it is familiarly known, which is a high explosive, blocks

containing explosives made to simulate lumps of coal, safety fuse, a standard fuse which is used to set off explosives; detonating fuse, which is used to connect charges of explosives that are to be set off simultaneously; detonators of several kinds, those set off electrically, as well as detonators to be set off by fuse; adapters to permit the use of the fuse with other detonators or incendiary igniters; there were small incendiary devices or incendiary igniters; fuse lighters, small instruments used to ignite the safety fuse; wood blocks containing detonators both of the standard type and of a special type which were threaded; electrical devices for setting off the special detonators; timing devices, both mechanical and chemical; time devices constructed or concealed as pen and pencil sets, and a paper pan containing an abrasive mixture.

Q. Could you tell us approximately how many blocks of the TNT were included in this material?

Mr. MEDINA. May it please the Court, may I be deemed to have objected to this entire line so that I will not have to interrupt?

The COURT. Yes, Mr. Medina.

Mr. MEDINA. Thank you. And I respectfully except to your Honor's ruling.

A. There were 46 blocks of the TNT, each block weighing one kilogram, or approximately 2.2 pounds.

Q. I think you mentioned that there were blocks; was this TNT made in the form of a lump of coal?—A. In addition to the 46 demolition blocks of TNT there were four of the so-called coal blocks containing TNT.

Q. And what were they made of besides the TNT?—A. The explosive side of the TNT was covered with a black plastic material to give it the appearance of a lump of coal.

Q. And you mentioned various detonators and incendiary devices?—A. Yes.

Q. Can you tell us approximately how many there were of each type?—A. Yes; there were 25 electric detonators; that is, small metal tubes filled with a charge of a violent explosive which is set off by connecting them to a battery or other source of electrical energy. There were 75 fuse-type detonators which were contained in wood blocks which were sealed. There were 50 detonators of a special type which were threaded to permit their use with a chemical or mechanical timing device, and there were 25 threaded igniters or incendiary devices contained also in wood blocks.

928. Q. I will show you Government's Exhibit 11 and ask you if that is a photograph of the containers or of the material as you found it?—A. This is a photograph of the four

boxes before opening, and after they were removed from the beach.

Mr. CORREA. May the jury see that?

The COURT. That is exhibit what?

Mr. CORREA. Exhibit 11 in evidence, your Honor.

(Exhibit handed to the jury.)

Q. Now I show you Exhibits 12 and 13 and ask you what is set forth therein?—A. Photographs 12 and 13 show two of the boxes after they had been opened and the photograph portrays the wood boxes, the metal liners which were soldered or hermetically sealed, and in each photograph 18 TNT demolition blocks which were individually wrapped in paper.

Q. And in each photograph one block appears unwrapped; is that correct?—A. That is correct.

(Government's Exhibits 12 and 13 handed to the jury.)

Q. I show you Government's Exhibit 14 in evidence [handing to witness], and ask you what is set forth in that picture?—

A. This photograph Government's Exhibit 14 shows the third wood box after it had been opened, the metal liner, ten more of the TNT demolition blocks, the four bombs made to simulate lumps of coal, four coils of safety fuse, and one coil of detonator fuse.

Q. Now I show you, sir, Government's Exhibit 15 [handing to witness], and ask what that represents?—A. Government's Exhibit 15 is a photograph showing the fourth box after it had been opened, the metal liner, and the contents, which consisted of the various detonators, igniters, the delay devices, and the abrasive.

Q. And Government's Exhibit 16 [handing to witness]?—A. Government's Exhibit 16 is a photograph of one of the bombs constructed to simulate a lump of coal.

Q. By the way, I note on Government's Exhibit 16 there appears a rule with the notation of 2 inches, in a graduated scale.—

A. That is correct. The scale was placed in the photograph to show the size of the coal bomb.

Q. How many such coal bombs were there did you say?—

A. There were four in this lot.

Q. I show you Government's Exhibit 17 in evidence [handing to witness], which is a photograph of several coils of wire, and ask you what it is?—A. Government's Exhibit 17 is a photograph showing the four coils of safety fuse and the one coil of detonating fuse.

Q. And Government's Exhibit 18 [handing to witness], which is another coil?—A. Government's Exhibit 18 is a photograph of a piece of a detonating fuse, which is also shown in Government's Exhibit 17.

Q. That is a close-up of the same fuse; is that correct?—A. This is a close-up of a piece of detonating fuse; yes.

Q. And Government's Exhibit 19 [handing to witness]?—A. Government's Exhibit 19 is a group photograph of the detonators, igniting devices, and accessories contained in the lot of explosive material.

Q. And Government's Exhibit 20 [handing to witness]?—A. Government's Exhibit 20 is a close-up photograph of one of the electric detonators which is shown in photograph Exhibit 19 at the upper center.

Q. The center of these three groups; is that correct?—A. That is correct.

Q. That is a close-up of one of those detonators?—A. It is.

Q. I show you, sir, Government's Exhibits 21 and 22 [handing to witness].—A. Government's Exhibit 21 is a close-up photograph showing one each of the three types of wood blocks which are also shown in Government's Exhibit 19, and these blocks each contain a different type of detonator or igniting device. The block shown in the center contained five—it is one of the blocks containing five commercial type fuse detonators. The block on the right is one of those, each of which contained five of the special type threaded detonators, and the block on the left which has been opened is one of those, each of which contained five of the special incendiary igniters.

Q. That is Government's Exhibit 21?—A. Yes.

Q. Now Government's Exhibit 22 is a close-up, is it not, of one of the—A. It is. Government's Exhibit 22 is a close-up photograph of one of the electric matches, which is also shown in Government's Exhibit 19. It is a small device which will accommodate either the threaded detonator or threaded igniter, in order that they may be set off electrically.

Q. And this too is photographed with a rule?—A. It is.

Q. To indicate its size; is that correct?—A. Yes.

Q. Now Government's Exhibit 23 [handing to witness].—A. Government's Exhibit 23 is a photograph of ten mechanical timing devices one of which is wrapped in paper, the other nine having been unwrapped. In addition there is also shown the box in which these devices were packed, the caps and primers for these time devices, which provide a delay of fourteen days, in setting off a delay explosive or incendiary.

930 Q. That is, they could be set to explode or ignite a charge fourteen days from the time they were set?—A. Yes, sir.

Q. You call them mechanical timing devices. Are they similar to a clock mechanism?—A. A time clock or mechanical time device. Either description is correct.

Q. Now, sir, as to Government's Exhibit 24, which is identified

by the witness by some writing appearing on the top of the box depicted there [handing to witness].—A. Government's Exhibit 24 is a box containing ten chemical delay devices, which are small brass and plastic instruments providing a delay of approximately an hour to 70 minutes. The base of these devices are threaded to accommodate the detonator or incendiary igniter.

Q. You say, these provide a delay of an hour to 70 minutes?—A. Approximately that.

Q. Was that notation "70, Minuten" which appears on the top of the box on the box when it was found?—A. It was.

Q. I show you, sir, Government's Exhibits 25 and 26 [handing to witness], and ask you first is it not true that Exhibit 26 is a close-up of one of the objects depicted in Government's Exhibit 25?—A. It is.

Q. What were those objects; will you describe them?—A. Government's Exhibit 25 is a group of glass ampules each containing a quantity of sulphuric acid to be used with the chemical delay shown in Government's Exhibit 24; and photograph Government's Exhibit 26 is a close-up of one of these ampules of sulphuric acid.

Q. That is, they are used in connection with the delay devices which you said operated on a 60- or 70-minute period of delay?—A. That is correct.

Q. By the way, referring again to Government's Exhibit 25, does that show the way in which these ampules of sulphuric acid were packed?—A. The photograph shows the box after it was opened. The bottom and top of the box are now empty. The white powder was contained in the boxes as a protective medium for the capsules.

Q. Now, sir, I show you Government's Exhibit 27 [handing to witness], and ask you what the material depicted there is?—A. Government's Exhibit 27 is a group photograph of the five pen and pencil time delay devices which are contained in this equipment.

Q. Would you state, sir, how this pen and pencil set is used. You have told us what its function was, but how were those particular sets usable?—A. It is necessary to combine the pen and pencil in order to use it as a delay mechanism. The cap of the pen is removed and the top and clip of the pencil are also removed. The threads of the pen will then fit into the body of the pencil, and the point of the pencil when removed reveals threads which will accommodate either a detonator or an incendiary igniter. The end of the pen when twisted will start a chemical delay action which varies in this equipment from two and three-quarter hours to 13 hours, depending upon

which set is used, and after that period of delay the chemical delay reaction will set off either a detonator or igniter."

5. The Trial Court erred in denying the defendant's motion to dismiss the indictment made at the close of the Government's case (Steno. Min., p. 425).

6. The Trial Court erred in denying the motion to withdraw from the consideration of the jury overt acts Nos. 1, 2, and 10, and each thereof (Steno. Min., pp. 736-7).

7. The Trial Court erred in denying the defendant's motion for a direction of a verdict of acquittal, made at the close of the entire case (Steno. Min., p. 734).

8. The Trial Court erred in denying the defendant's motion to set aside the verdict and to order a new trial (Steno. Min., p. 735).

9. The Trial Court erred in denying the defendant's motion for a mistrial, made in connection with a question put to the defendant on cross examination concerning statements made by the defendant's nephew, Norbert, in a letter written to the defendant by the said Norbert (Steno. Min., p. 653).

10. The Trial Court erred in refusing to grant defendant's requests to charge Nos. 2, 6, 7, 9, 17, and 18, as follows:

"2. Unless the jury are satisfied beyond a reasonable doubt that the defendant Cramer knew that Kerling and Thiel, or either of them, was an agent or a spy of the German Reich at the time he did the several acts testified to and that he did the several acts for the purpose and with the intent of assisting the German Reich in the prosecution of its war or in hampering the United States in the prosecution of its war against the German Reich, the defendant must be acquitted."

932 "6. The several acts of the defendant must have been committed with an actual knowledge of the fact that Kerling and Thiel, or either of them, were in fact agents and spies of the German Reich. A mere suspicion or conjecture that they might have been spies or agents of the German Reich and thus enemies of the United States is not sufficient to warrant a conviction."

"7. In order to convict the defendant the jury must find that the defendant's acts and conduct were the result, not of negligence or thoughtlessness, but were inspired by a definite intent and purpose to assist Thiel and Kerling, or either of them, in the prosecution of their mission to this country."

"9. Letters or statements made by the defendant before this country's entry into the war, insofar as they may have indicated sympathy or preference for Germany or any criticism of this country's policy with respect to the war, were, as a matter of

law, entirely lawful and proper and the jury should not consider such letters or statements as any evidence of treasonable intent."

"17. With respect to overt act No. 10, if the jury find that the defendant made false statements to the agents of the Department of Justice at the time of his apprehension for the purpose of concealing the name and whereabouts of Werner Thiel from the Selective Service authorities and not with the intent and purpose of rendering aid and comfort to Thiel as an enemy agent, knowing him to be such, such false statements do not constitute treasonable conduct."

"18. If the jury find that these false statements were prompted solely by the defendant's fear that he would be involved in some investigation by the Department of Justice and not made for the purpose of concealing Thiel's identity and whereabouts, knowing him to be an enemy agent, such false statements do not constitute treasonable conduct."

11. The Trial Court erred in charging the jury with respect to the requirement of proof of each overt act by two witnesses as follows (Steno. Min., pp. ok11, ok12, ok20, ok22):

"The Constitution of the United States provides that no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act. This means that the Government must prove at least one of the three overt acts charged in the indictment by the testimony of two witnesses. These witnesses must be direct witnesses to the overt act. Where the overt act is of a type which is separable into parts, that is, a continuance and composite act made up of several circumstances and passing through several stages, there must be two direct witnesses to each part of the act, but they need not be the same two witnesses who testified to other parts of the act. So long as each part of the overt act is supported by the testimony of two witnesses.

I also except to your Honor's instruction with reference to the two witnesses to the overt acts, it being my understanding that your Honor charged that it was not necessary that there be two witnesses to each circumstance or each stage of the overt act.

The Court. I don't think I understood you clearly.

Mr. MEDINA. Your Honor will recall that I submitted a written memoranda indicating—and I do not know whether you think it proper for me to discuss this now—those authorities.

The Court. No, not discuss it; merely take your exception. I want to understand what you except to.

Mr. MEDINA. There are two views. I thought your Honor on your charge, as I listened to it, accepted the view of one of those

that I had thought was erroneous, and I want to state my objection to the way in which your Honor charged that the two-witness rule was applicable.

The COURT. Yes; I think I understand you. You disagree with the statement of the Court that if the overt act is separable into parts, that is, a continuing and composite act made up of several circumstances and passing through several stages, there must be two witnesses to each part of the act. That is the part you object to.

Mr. MEDINA. I do. That is precisely the part.

The COURT. I so charged, and you may have an exception."

12. The Trial Court erred in stating, in the presence of the jury, that counsel for the defendant had been assigned by the Court (Steno. Min., p. ok1).

Wherefore, the defendant prays that the judgment herein be reversed and that the sentence imposed on said judgment be set aside.

HAROLD R. MEDINA and
JOHN McKIM MINTON, Jr.,
Attorneys for Defendant.

934 [File endorsement omitted.]

935 In United States District Court

[Title omitted]

Stipulation dispensing with printing of exhibits

March 16, 1943

It is hereby stipulated by and between the United States District Attorney and the attorneys for the defendant that the printing of all exhibits, on the appeal of the defendant to the Circuit Court of Appeals, may be dispensed with and that said exhibits, or photostatic copies thereof, may be handed up to the Court by either party on the oral argument of the appeal.

Dated: March 16th, 1943.

MATHIAS F. CORREN,
United States District Attorney.

HAROLD R. MEDINA,
Attorney for Defendant.

JOHN McKIM MINTON, Jr.,
Attorney for Defendant.

936 [File endorsement omitted.]

474

ANTHONY CRAMER VS. UNITED STATES

937

[Clerk's certificate to foregoing transcript omitted in printing.]

938

[File endorsement omitted.]

939

In United States Circuit Court of Appeals
Second Circuit

UNITED STATES OF AMERICA

vs.

ANTHONY CRAMER, DEFENDANT-APPELLANT

Order permitting filing of typewritten record and brief

March 1, 1943

Upon the annexed stipulation, signed by the United States District Attorney and the attorneys for the defendant, and upon the annexed affidavit of Harold R. Medina, duly sworn to the 24th day of February, 1943, it is

Ordered that the Clerk of the District Court, Southern District of New York, accept for filing a bill of exceptions, herein consisting of one typewritten set of the stenographer's minutes of the trial in the District Court, typewritten copies of defendant-appellant's assignment of errors, the indictment and all necessary orders, and a stipulation, to be made with the approval of the District Court, dispensing with the printing and filing of the exhibits and providing that either the original exhibits, or photostatic copies thereof, may be handed up to the Court on the oral argument of the appeal, and it is

Further ordered that, upon the settlement and filing of the bill of exceptions in the form aforesaid, the Clerk of the District Court shall transmit the same, together with his certificate, to the Clerk of the Circuit Court of Appeals, Second Circuit, as the Record on Appeal on which the appeal and all proceedings in this court shall be heard; and it is

Further ordered that, in lieu of printed briefs, defendant-appellant may file with the Clerk of this court three typewritten copies of his brief and serve one copy thereof upon the United States District Attorney and that said brief may be not more than 75 pages in length.

LEARNED HAND,

United States Circuit Court Judge.

941

[File endorsement omitted.]

942 In the United States Circuit Court of Appeals for the
Second Circuit

No. 270—October Term, 1942.

(Argued June 7, 1943)

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

ANTHONY CRAMER, DEFENDANT-APPELLANT

Appeal from the District Court of the United States for the
Southern District of New York.

Anthony Cramer was convicted of treason under 18 U. S. C. A.
§ 1, and he appeals. Affirmed.

Before SWAN, CHASE, and CLARK, Circuit Judges.

HAROLD R. MEDINA, of New York City (John McKim Minton,
Jr., and John W. Jordan, both of New York City, on the brief),
for defendant-appellant.

MATHIAS F. CORREA, U. S. Atty., of New York City (Richard
J. Burke and Louis W. Goodkind, Asst. U. S. Attys., both of
New York City, on the brief), for plaintiff-appellee.

Opinion

Aug. 20, 1943.

943 CLARK, Circuit Judge:

Appellant, Anthony Cramer, was convicted by a jury under
an indictment charging treason by adhering to enemies of the
United States, giving them aid and comfort, in violation of Sec.
1 of the United States Criminal Code, 18 U. S. C. A. § 1. He was
sentenced to 45 years' imprisonment and fined \$10,000. His appeal
challenges the sufficiency of the evidence to sustain the conviction,
the legal sufficiency of the overt acts submitted to the jury,
the adequacy of proof of the overt acts, and the admission of alleged
prejudicial evidence.

Sec. 1 of the Criminal Code provides: "Whoever, owing allegiance
to the United States, levies war against them or adheres
to their enemies, giving them aid and comfort within the United
States or elsewhere, is guilty of treason." This enacts the definition
of treason laid down in Art. 3, § 3, cl. 1, of the Constitution

of the United States, all parts of which are also here controlling, as follows: "Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court."

In substance appellant is charged with having aided and comforted Werner Thiel and Edward John Kerling, German saboteurs, by receiving and safeguarding property of Thiel, carrying out Thiel's requests and instructions to establish contact and communication with others, and giving false information to conceal his activities. Thiel and Kerling were two of the eight German saboteurs who, equipped with various high explosives and other sabotage devices for use against American industry, were landed on the shores of Florida and Long Island in June 1942, by a German submarine, but who were all shortly apprehended, tried, **944** and sentenced, six to death, two to long-term imprisonment.

Cf. *Ex parte Quirin*, 317 U. S. 1, 63 S. Ct. 2.

Appellant, a naturalized citizen, was born in Germany in 1900 and served in the German army during World War I. He came to this country in 1925 with the announced intention of becoming a citizen, which he did in 1936. He first met Thiel while working in Detroit in 1929. They became fast friends; and when appellant moved to Hammond, Indiana, in 1933, he sent Thiel money to come out to work there, too. In 1934, they joined the Friends of New Germany, which subsequently became the notorious German Bund. Appellant was treasurer, but resigned in 1935, as he claims, because it was a money swindle and because he disliked its emphasis on marching and other martial activities. In 1936, he returned to his home in Germany for a short visit. While there he attended the Olympic games, to which a number of the Friends of New Germany had also come.

Upon his return in 1936, he and Thiel after an unsuccessful venture with a Florida restaurant went to New York, where they lived together or in close contact with each other until Thiel left for Germany in March 1941—to enter a school for saboteurs, as it now appears, although appellant claims not to have known this. Appellant admits, however, that he realized during the time they were so closely associated that Thiel was an ardent Nazi. While they were in New York, appellant loaned Thiel money on a number of occasions, totaling, according to an account book kept by appellant and placed in evidence, \$217.50. This sum was unpaid when Thiel left for Germany.

Appellant did not see Thiel again until June 22, 1942, soon after the latter's landing in Florida from a German submarine. Appellant, testifying in his own behalf, gave a full account of the

945 events of that day and of the ensuing week which formed the basis of his arrest. Since this presents the events in sequence, as well as in the light most favorable to him, we can well start with his story. He was in his apartment in New York City on the morning of June 22 when he heard a strange voice call his name outside the door. He decided not to answer, and a note was then slipped under his door, reading: "Be at the Grand Central station tonight at 8 o'clock, the upper platform near the information booth, Franz from Chicago has come into town and wants to see you; don't fail to be there." Appellant claims he knew no Franz from Chicago, but when evening came, curiosity got the better of him and he went to the appointed place. There Thiel met him. Appellant, astonished, sought the details of his return to this country and asked Thiel particularly whether he had come by submarine. Thiel looked startled and then with a smile put him off with the promise to give the full story later. He pressed upon appellant, however, the fact that his name was now Bill Thomas and that he was anti-Nazi.

From the station they went to the Twin Oaks Inn at Lexington Avenue and 44th Street for a drink, and while there Thiel asked appellant about his fiancée, Norma Kopp, in Westport, Connecticut; Thiel adopted appellant's suggestion that appellant write her to come to New York City, without, however, disclosing his arrival. When appellant told Thiel that agents of the Federal Bureau of Investigation had inquired about him, Thiel showed a draft registration card with the name William Thomas on it and said that was to avoid any trouble. He again put off further questions as to his reasons for coming back from Germany with the suggestion that they wait until Norma arrived and then they could discuss the whole thing over a glass of wine.

946 Later in their discussion of the bombings of German cities, however, Thiel let slip that "the only time I really was scared to death was when I came over here we got bombed." In appellant's own words: "One thought, it came to me in a flash, I said, 'Then you have come over by submarine, haven't you?'" Again he was put off by Thiel, who apparently became irritated at his inquisitorial attitude. Appellant admits, however, that by then he was sufficiently convinced of the idea to try to broach the subject again, though unsuccessfully, by relating an experience of a submarine which he had heard over the radio. Thiel turned to the subject of his debt to appellant and stated that he could now pay it, as he had about three and a half or four thousand dollars with him. He told appellant that "if you have the right kind of connection you can even get dollars in Germany." He accepted appellant's suggestion that he place the balance in appellant's safe deposit box.

After leaving the Twin Oaks Inn they went for a drink to the Commodore Hotel, where Thiel told appellant he was staying. Before parting they walked outside the hotel and the station for a short time talking and made arrangements for a meeting the next night at the Twin Oaks Inn, as Thiel declared that he could not come to appellant's apartment because he had too many acquaintances there and did not want to be seen.

At their second meeting, June 23, they were joined by Edward Kerling (the leader of the Florida group of saboteurs) for about three quarters of an hour, and they all discussed German history. After Kerling left, Thiel told appellant he had his money in a belt on his body, and he went to the men's room to remove it. Thiel paid the bill, as he had the previous night; they walked to the street; and Thiel there handed the belt over. Thiel told appellant to hold some out from the safe deposit box for ready use. After stopping in Thompson's Cafeteria for a cup of coffee, they made arrangements to meet again two days later, on June 25.

947 Upon reaching home appellant took the money out of the belt and put the belt in his shoe box. The next night he counted the money, which totaled \$3,670. He made a memo showing the denominations of the bills and a deduction from the total for \$200 due him. The same evening he wrote Norma to come to New York, as he had "news of the most sensational nature" for her. The next day he mailed the letter and deposited the money in his box, keeping \$160 for Thiel's immediate use in a book in his apartment. Appellant did not find Thiel at the appointed place that night for the simple reason that Thiel had been arrested. The next night he went again without success. Shortly after he returned home, Norma arrived and he told her Thiel was back. She was incredulous; and he could tell her only that Thiel might have come by submarine, that he had some \$3,000 with him, and that he had promised a full story when he saw her. Appellant decided that night to leave a note at the Commodore Hotel for Thiel telling him to meet them the next afternoon at four o'clock. Thiel, of course, never met them.

The next night, June 27, appellant was arrested by the FBI. He was questioned and lied that Thiel's name was Bill Thomas, that Thiel had not been outside the United States, and that most of the money in the bank was appellant's own and only a couple of hundred dollars was in the money belt. He admits these lies now, but asserts that they were designed solely to prevent Thiel's punishment as a draft dodger. The money and the money belt were found by the FBI agents at the places in his room and in the bank to which appellant directed them.

All this, of course, is appellant's version, and he claims that he

sought simply to aid Thiel as a friend and had no treasonable intentions. But strongly evidential of a state of mind hostile to the United States were three letters he had written shortly prior 948 to these events, in which he had expressed warm support of the German army and the German people in their war.¹

Directly contradictory also to his denial that he ever knew or suspected that Thiel was an enemy agent is the testimony of Norma Kopp and of Special Agent Ostholthoff of the FBI. Norma Kopp testified that when she met appellant in New York he told her that Thiel had landed from a U-boat off Florida, that he had brought over money from the German Government, and that he got instructions from a "sitz," a hide-out, in the Bronx. Ostholthoff also testified that appellant had asked to speak to him alone during the FBI examination and had then told him that Thiel had said he was here on a mission for the German Government and that he (appellant) thought it was to stir up unrest among the people and probably spread propaganda.

This testimony was corroborated by a written statement signed by appellant a little later that same night wherein he declared that he had a hunch Thiel was here to spread stories and circulate rumors and that Kerling was here for the same purpose, that

he also thought Thiel might have gotten the money from 949 the German Government, and that he had told Norma

Kopp of these hunches. He also stated, "I know [^{was scratched out} 'knew'] that it is wrong for a person to incite unrest among citizens by spreading stories and circulating rumors during war-time, but if Thiel had come over to the United States to engage in such activity, I would not think of reporting him, because I would never betray a friend." It is without significance that appellant did not here assert that Thiel told him he was on a mission for the German Government, for the decisive issue must be the nature of the mission and there is no inconsistency between the written statement and Ostholthoff's testimony, to the extent of appellant's knowledge or belief that the mission was in no event peaceful or lawful.

This statement was introduced in evidence by defendant, who

¹ Writing Thiel in Germany, November 25, 1941, appellant said that "defiance, boldness, will, and sharp weapons will decide the war; and the German Army and the German people are not lacking in these," that he was "very discontent" and sat here "in pitiable comfort," and that he had refused a job in Detroit at \$100 per week because "I do not want to soil my hands with war work." To his family in Germany he wrote December 3, 1941, of "the gigantic sacrifices which the glorious, disciplined German Army is making from day to day for the Homeland," that "every day here I hear the shrieks of hatred and the clamor for annihilation from the hostile foreigners," and that a lost war "means today a complete extirpation of the German nation." To a friend in Chicago he wrote April 21, 1942, objecting to conscription "after one has spent almost half a lifetime here in the States," and saying "personally I should not care at all to be misused by the American army as a world conqueror." All the letters were written in German.

on direct examination admitted that everything in it was true.² On cross examination, however, confronted with the particular assertions noted above, his claim was that he had made them simply to avoid appearing "empty-minded" and because "I did not know the consequences of my statement." Even in the cross examination, however, he testified that he had a hunch
 950 Thiel was on a mission for the German Government. And while he subsequently retracted this testimony to say simply that he had a hunch Thiel had come over on a German submarine, at the same time he admitted some suspicions in that he had asked Thiel if he was here to incite unrest and spread rumors.

Two elements are essential to a conviction for treason: a treasonable intent and an overt act in manifestation of that intent. From all the testimony, including appellant's own, the jury could properly find that he knew some improper enterprise was afoot and that he intended to aid the enemy in its prosecution. When one's country, though adopted, is at war, one cannot, without risk of conviction of giving aid and comfort to the enemy, freely associate even with old friends or assist them even in comparatively small ways, as by banking their funds or intermediating with others for them—once one knows or reasonably suspects them to be here in the role of illegal invaders, whether armed physically or with the more modern, but nonetheless destructive, weapon of propaganda. The jury could, therefore, properly find as it did, provided it also relied on a legally sufficient overt act, testified to by two witnesses. Appellant's attack on the sufficiency of the overt acts considered by the jury brings us to the principal issue on this appeal.

Three overt acts were submitted to the jury, with the intimation that proof of any one would be sufficient to sustain a conviction if the treasonable intent was also found. They were numbered 1, 2, and 10 in the indictment and alleged respectively:

- 951 "1. That on June 23rd, 1942, the defendant met with Thiel and Kerling at the Twin Oaks Inn at Lexington Avenue and 44th Street, in the City of New York, and did confer, treat, and counsel with the said Thiel and Kerling for a period of time."
 "2. That on June 23rd, 1942, the defendant did accompany, confer, treat, and counsel with Thiel for a period of

²The record does not disclose when appellant was questioned and this statement taken by the F. B. I. agents with reference to his arraignment. Nor has the point been argued. Defendant himself introduced the statement to corroborate his own testimony, and under the circumstances the testimony as to the questioning itself was fairly founded on the statement. It may be noted, too, that appellant does not claim that the examination was overburdensome or that he was in any wise imposed upon by the agents; and at the beginning of the written statement he specifically declared that he made "the following voluntary statement," "having been previously informed that I do not have to make any statement if I do not desire to, and that anything I may say herein may be used against me." There is no issue, therefore, under *McNabb v. United States*, 318 U. S. 332, 63 S. Ct. 608, and *United States v. Haupt, et al.*, 7 Cir. — F. 2d — June 29, 1943; and see *United States v. Hoffman*, 2 Cir. — F. 2d — July 26, 1943.

time at the Twin Oaks Inn at Lexington Avenue and 44th Street and at Thompson's Cafeteria on 42nd Street, both in the City of New York."

"10. That on June 27th, 1942 the defendant gave false information and made false statements regarding Werner Thiel to Special Agents Willis and Ostholtz of the Federal Bureau of Investigation as follows: (1) that Werner Thiel's name was Bill Thomas; (2) that from March 1941 until June 1942 Thiel had been working in a factory on the west coast of the United States; (3) that during the aforesaid period Werner Thiel had not been out of the United States; (4) that the money belt given him by Werner Thiel in June, 1942 had contained only a couple of hundred dollars which Werner Thiel had owed him; and (5) that the \$3,500 in the defendant's safe deposit box at the Corn Exchange Bank, on East 86th Street, belonged to him and had been obtained by him from the sale of securities because he considered it safer there than in his savings account in said bank; that the foregoing false information was given for the purpose of concealing the identity and mission of the said Werner Thiel."

The legal sufficiency of each one of these acts separately and of all together was challenged by appellant by appropriate motions, requests to charge, and objections to the charge as given. If any one was insufficient to support a conviction, it was reversible error for the judge to submit it to the jury, unless he had required the jury to find separately as to each, as he did not. Cf. *Nash v. United States*, 229 U. S. 373; 33 S. Ct. 780, 57 L. Ed. 1232; *Gilson v.*

United States, 2 Cir., 258 F. 588 (Hough, J.), certiorari denied 251 U. S. 555, 40 S. Ct. 119, 64 L. Ed. 412; *Minner v.*

United States, 10 Cir., 37 F. 2d 506. It is now impossible to say that the jury may not have convicted on the legally deficient act, if one is deficient. There is no analogy to those numerous cases in which it has been held not improper to submit a number of overt acts to the jury, although the proof established only one. Cf. *Hall v. United States*, 10 Cir., 109 F. 2d 976; 15 C. J. S. 1068, 1137, and cases cited. There it can be presumed upon a conviction that the jury has properly fulfilled its time-honored function of weighing the evidence and that its finding of guilt was based on the one sufficiently proved overt act. But the jury was never intended, nor, indeed, is it properly equipped, itself to determine the legal sufficiency, as distinguished from the evidentiary sufficiency, of the overt acts alleged.

Appellant challenges each of the overt acts relied on upon the ground that in and of itself, unaided by other evidence, it showed no treasonable intent. The converse of this contention is that any act which might have been done with an innocent purpose must be excluded. But such an interpretation is not warranted in the

historical background of treason. The constitutional debates show that the framers were strongly influenced by the English law of treason, see Madison, *Journal of the Federal Convention*, 1787, 565, 566; and it is reasonable to suppose that they intended to give Art. 3, § 3, the same scope, as well as in effect the same phraseology, as the English statute then most recently construed in the famous Lord Preston's Case, 12 How. St. Tr. 646, 1491. There the prisoner was discovered on shipboard in Kent, bound for France, with military information on the disposition of the English forces. His defense was, that no overt act was proven in the County of Middlesex, as alleged. He had,

however, taken ship at Surrey Stairs in the County of

Middlesex; and Lord Chief Justice Holt held that such act, in prosecution of an intent to aid the enemy, was a sufficient overt act of treason. He said to Lord Preston (12 St. Tr. at

727): "My lord, as to the first matter that your lordship makes

a question upon, whether there be any act of treason proved in Middlesex, that does depend upon the proof of your lordship's

being concerned in the papers: for if your lordship had an intention in carrying these papers into France, which speaks a design

to invade this realm, your lordship took boat in Middlesex at Surrey Stairs, in prosecution of that intention, there is an overt

act in this county of Middlesex." And to the jury he said (12

St. Tr. at 740): "Ay, but gentlemen, give me leave to tell you: if you are satisfied upon this evidence that my lord was privy to

this design, contained in these papers, and was going with them, into France, there to excite an invasion of the kingdom, to de-

pose the king and queen, and make use of the papers to that end, then every step he took in order to it, is high-treason, wherever

he went: his taking water at Surrey Stairs in the county of Middlesex, will be as much high-treason, as the going a ship-board

in Surrey, or being found on ship-board in Kent, where the papers were taken."

The decision establishes the proposition that a treasonable intent need not be manifested by an overt act, and nor that the act of itself must show the intent. The act in and of itself

may be innocent; the intent with which it is committed is shown by all the surrounding circumstances, proof of which separately

does not require the testimony of two witnesses. See *Rex v. Vaughan*, 2 Saik. 634, 11 Eng. Rep. 535, 13 St. Tr. 485, 1696,

where it was held that the prisoner had committed an overt act of treason merely by cruising on the high seas for the French

King, his intent, as shown, being to aid and assist that enemy; and compare *The Case of Hugh Pine*, Cro. Car. 117, 1

Hale P. C. 118, 79 Eng. Rep. 703, 1628, where charging the King with vice was held no treason, in absence of proof of a treasonable intent, with *Rex v. Churnock*, 2 Salk. 631, 91

Eng. Rep. 533, 1695, where words of persuasion to kill the King were held overt acts of treason, "for the bare imagination and compassing makes the treason, and any external act that is a sufficient manifestation of that compassing and imagining is an overt act." That this has also been the tent construction of the English law, see *Rex v. Lynch* [1903], 1 K. B. 444, 72 L. J. K. B. 167, 20 Cox C. C. 468 (declaration and oath of allegiance to Government of South African Republic, although the basis of naturalization held overt acts of aiding and comforting the enemy), and *Rex v. Casement* [1917], 1 K. B. 98, 86 L. J. K. B. 467 (Lord Chief Justice Reading in summing up to the jury, see *Trial of Sir Roger Casement, 1917*, ed. by Knott, p. 183: "Overt acts are such acts as manifest a criminal intention and tend towards the accomplishment of the criminal object").

The early decisions in our own courts follow this construction. *United States v. Lee*, C. C. D. C., 26 Fed. Cas. 907, No. 15,584 (purchase of melons, an act innocent enough in itself, held sufficient a overt act; intent to deliver to enemy established by other circumstances); see *Case of Fries*, C. C. Pa., 9 Fed. Cas. 826, 914, No. 5,126 (per Circuit Justice Fredelle "The fact is that, when the overt act is proved by two witnesses, it is proper to go into evidence to show the course of the prisoner's conduct at other places, and the purpose for which he went to that place where the treason is laid, and if he went with a treasonable design, then the act of treason is conclusive."

In *Ex parte Ballman*, 4 Cranch 25, 8 U. S. 75, 2 L. Ed. 554, Mr. Chief Justice Marshall, in defining treason by levying war, held that once a body of men had assembled for the treasonable purpose, any one who performed any act in furtherance of that purpose, however minute and however remote from the scene of the action, is a traitor. This decision was further explained in *United States v. Burr*, C. C. Va., 25 Fed. Cas. 55, No. 14,693, where the sole overt act alleged was an unlawful assemblage, but the defendant was not shown to have been present. The Chief Justice instructed the jury that there was a failure of proof of the overt act; but he pointed out that the defendant might have been convicted upon allegation and proof of an act in furtherance of the design, remote, and minute though it be in its bearing on the unlawful assemblage. See, also, *In re Charge to Grand Jury*, C. C. Mass., 30 Fed. Cas. 1049, No. 18,277. Defendant cites these cases to show that, since conviction of treason

by levying war requires an actual showing of force, by analogy conviction of treason by aiding and comforting the enemy requires an act in and of itself hostile to the United States. But a defendant to be convicted of treason by levying war need not himself have been engaged in the treasonable assemblage; but may only have aided it in some remote and minute fashion. Where treason by aiding and comforting the enemy is concerned, the requirement corresponding to a warlike assemblage must be simply that there be an enemy to aid and comfort. Any act, then, which by fair construction is in any manner in furtherance of a hostile design of such enemy is a sufficient overt act, to be proved by the testimony of two witnesses; and the purpose with which the act is done may be gathered aliunde from all the circumstances.

In the most recent case on this point, *Stephen v. United States*, 6 Cir., 133 F. 2d 87, certiorari denied, — U. S. —, 63 S. Ct. 858, rehearing denied, — U. S. —, 63 S. Ct. 1172, the court accepted without discussion as overt acts properly submitted to the jury that the defendant escorted an escaped German prisoner from the meeting place to his car, and that he took him to restaurants and clubs and entertained him and also concealed his identity at these places.

So, also, in *United States v. Fricke*, D. C. S. D. N. Y., 259 956 F. 673, Mayer, J., submitted to the jury as overt acts of aiding and comforting the enemy that defendant held money on deposit for a German spy and paid it out to him, and that he lied to government officials as to the identity and activities of such spy, with intent to deceive such officials. In both cases attention was directed solely to the sufficiency of proof of the acts. Had there been any question in either case of their legal sufficiency, we cannot but believe that the court would have raised it, for where the death penalty is applicable, a court will notice all possible errors even though not properly raised. *Stephen v. United States*, supra, 133 F. 2d at page 90. The *Stephen* case was before the Supreme Court four times—once on the petition for certiorari, — U. S. —, 63 S. Ct. 858, once on petition for a stay of execution, which was granted, — U. S. —, 63 S. Ct. 984, once on the petition for a rehearing, — U. S. —, 63 S. Ct. 1172, and once on application for allowance of an appeal direct from the district court, which was denied, — U. S. —, 63 S. Ct. 1135. In the latter case the Court observed in a per curiam opinion that it had rejected the petition for certiorari "after careful consideration of the case." In the light of this background, we do not feel we should hold to the contrary because of a dictum, much pressed upon us, as it was on the court in the *Stephen* case, in *United States v. Robinson*, D. C. S. D. N. Y., 259

F. 685, even if, as is doubtful, the statement relied on is against the views here stated.

957 Any interpretation of Art. 3, § 3, which would require the overt act itself to demonstrate the treasonable intent would erect a requirement of quantity of proof into a limitation on the crime itself, rendering it as a practical matter almost nonexistent. One would be hard put to it to think of an act, short of openly joining the armed forces of the enemy, which would surely show treason if resort cannot be had to background evidence of intent. And if such separation of proof into component parts is necessary, it would follow that the overt act would have to be proved first and the jury then pass upon the sufficiency of the intent thereby shown before any other evidence of intent be admitted. See Case of Eries, supra, 9 Fed. Cas. at page 916. For intent is always for the jury, and cannot be adjudged by the court in passing on the legal sufficiency of the overt act. In effect the overt act would then have to comprehend the whole treason, and proof aliunde of intent would be superfluous. This would mean an extension of the scope of the two-witness rule beyond anything heretofore known in its varied history, not to speak of a retrogression in the progressive emphasis on the quality of the witnesses to a crime, rather than on their numerical quantity. See 9 Holdsworth's History of English Law, 1926, 203-211; 7 958 Wigmore on Evidence, 3d Ed. 1940, 241-273. We believe in short that no more need be laid for an overt act of treason than for an overt act of conspiracy, which has never been thought of as itself establishing the unlawful scheme. The requirement will then be, as it is in terms, one of limitation of the number of witnesses to it, not some difference in kind applicable to this offense. Hence we hold the overt acts relied on were suf-

In that case Judge Learned Hand was actually passing on a point discussed later in this opinion: but before considering it, he expressed grave doubt of certain acts charged "which do not openly manifest any treason," and questioned whether the prosecution could charge as an overt act "a step taken in execution of the traitorous design, innocent in itself, and getting its treasonable character only from some covert and undeclared intent." This language does, of course, state the problem, albeit in abstract and general terms; just how far he would have gone, if pressed to it, in applying his thought is not clear. Appellant says one of the acts he questioned (though there is some ambiguity in his referent), charged meeting and conferring with one O'Leary. But O'Leary was not a saboteur from an enemy submarine; he seems at most a person interested in enlisting German support for the cause of Irish freedom. Also Judge Hand held "good as a pleading under any rule" a charge that the defendant embarked from Rotterdam bound for New York, carrying with him messages from the German Government with intent to convey them to certain German agents, though it would seem that he expressed disapproval of the sufficiency of a charge of defendant's arrival in New York with these same messages and the same intent. If anything, the latter would seem more decisive than the former, though to either proof of the intent appears requisite.

The government points out that even this act would not necessarily show treason because of its possible use by an American spy.

ficient to be submitted to the jury, even though they perhaps may have appeared as innocent on their face.

Something more should be said as to overt act 10, in view of appellant's reliance particularly upon *United States v. Leiner*, Cr. No. 113-120, D. C. S. D. N. Y., 1943, Clancy, J., where the court ruled out as overt acts misstatements of a prisoner to his captor upon the grounds that the prisoner knew the enemy allegedly aided had already been apprehended and beyond aid, and that the misstatements were such as to exculpate himself. Appellant urges that these conditions apply here. But they are at best indicia of intent, which is for the jury. And in any event, it is a non sequitur to suppose that because an enemy has been apprehended no aid can be extended him by misstatements as to his identity and activities. Certainly they may thwart his conviction and speed his release to commit further depredations. So, also, any general exception for misstatements tending to exculpate the prisoner would be somewhat at variance with the settled notion that a conviction of treason is proper even though the defendant is moved to commit the treason by pecuniary motives. In *re Charge to Grand Jury*, C. C. S. D. N. Y., 30 Fed. Cas. 1032, No. 18,270; In *re Charge to Grand Jury*, C. C. S. D. Ohio, 30 Fed. Cas. 1036, No. 18,272. And even if we should assume an immunity where facts are misstated without thought of aiding the enemy and solely for self-preservation, the case here is otherwise. Defendant claims that he lied as to Thiel's

identity to conceal Thiel's violation of the draft law. But he continued to deny Thiel's return to Germany in 1941 and his ownership of the money in the deposit box even after he was informed that the FBI knew his identity. And he makes no claim that this was to save himself.

Each of the overt acts was sufficiently proved by the testimony of two witnesses. While the two phases of overt act 2 were observed by different sets of witnesses, the discussion in the Twin Oaks Inn by Agents Willis and Rice, and the further discussion in Thompson's Cafeteria by Agents Rice and Stanley, we perceive no reason in policy or law to require the same two witnesses to the whole overt act. If the policy behind the two-witness rule is to protect the accused fully against conviction upon the false testimony of one hostile witness, certainly this multiplication of witnesses will still better insure the result. There is nothing contra in the holding in *United States v. Robinson*, supra, 253 F. at page 694, that "it is necessary to produce two direct witnesses to the whole overt act," for this was directed at the attempted proof of separable parts of the overt act by different witnesses, one for each part. Judge Learned Hand, however, went on to say, "It may be possible to piece bits together

of the overt act, but, if so, each bit must have the support of two oaths; on that I say nothing." See, also, 7 Wigmore on Evidence, 3d Ed. 1940, § 2038, page 271.

Nor is it significant that some of the witnesses viewed the conferences for but a few minutes, though the conferences actually continued for a total of some three hours. The indictment charged simply that appellant conferred, treated, and counseled "for a period of time," first with Thiel and Kerling and then with Thiel alone. Under the circumstances and in the light of the evidence as to intent, proof for a short period of time is adequate.

960 Furthermore, overt act 2 is not insufficient because only one witness testified as to the last clause that the \$3,500 (which appellant falsely claimed he owned) was kept by him in a safe deposit box "because he considered it safer there than in his savings account in said bank." The substance of the act was that appellant lied to government officials to cover up for Thiel. It was proved in all important respects by two witnesses. By analogy to those cases in which proof of but one of the overt acts of an indictment has been held sufficient, we see no reason why we should not disregard the failure to establish this allegation of overt act 10, in view of the other proved allegations; it is now mere surplusage. The jury could not conceivably have relied upon it solely to establish the act, for it presupposed appellant's claim of ownership, which was in fact proved by two witnesses.

Other errors assigned deal with the admission of testimony. Shortly after the opening of the trial the government introduced a mass of testimony as to the background and training of the saboteurs, the method which they used to enter the country, and the wide variety of tools of destruction which they brought with them. Appellant's counsel objected after a time to a continuance of this line of testimony, on the ground that it was unnecessarily prejudicial and inflammatory, especially since he conceded that the saboteurs were enemies of the United States. The objection was overruled. All told, some 75 pages of the testimony, which in toto comprises over 700 pages in the record, were devoted to this topic. We are not convinced, however, that the district court thereby abused its discretion. It was essential that the government prove that Thiel and Kerling were enemies of the United States, and it could not safely rely for this on any concession by appellant's counsel.

961 During the trial the Government's witness Powers, a "minute man" selling war bonds and stamps, was also allowed to testify over objection that when he called at appellant's apartment on June 22, 1942—the day appellant met Thiel—appellant had said he was not interested in buying even a war

stamp and had shut the door. While we may grant appellant's contention that this did not of itself show a treasonable intent, it was certainly evidence for the jury as to appellant's state of mind at this crucial time. It may be noted that Norma Kopp later testified that appellant had told her he had thrown the minute man out, and that she had originally thought that this was the cause of appellant's arrest by the F. B. I.; and further that appellant himself testified that he related the incident to Thiel, who said: "Well, why did you do that? Don't you think it is very dangerous to be unpatriotic today?" These were normal reactions to the incident; in any event, we think the jury was entitled to draw its own conclusions from it.

On cross examination appellant was asked whether he was ever particularly interested in the law of treason. When he answered in the negative, the prosecution introduced in evidence a copy of the Constitution taken from his room. On it the section concerning treason was bracketed in ink. Appellant admitted he had done this about a year and a half previously, which would be about March, 1941, the time Thiel left for Germany. At least five other unrelated provisions were also marked. The exhibit was properly admitted to impeach appellant's answer and to show his state of mind at least as of the time he marked the copy, which under the circumstances was not too remote to be relevant to the events of June, 1942.

Appellant was also required on cross examination to answer the question, allowed over objection, whether he had not received a letter in 1941 from his nephew Norbert in Germany warning him that his letters discussing the United States were so unfriendly that Norbert's father feared he would be placed on the black list. Of course, these expressions of opinion could not properly bind appellant; and the objection might wisely have been sustained. But the district court has a wide discretion to admit testimony on cross examination; and since the testimony prior to the objectionable question shows that it was intended to refresh appellant's recollection as to whether he had written any letters of a nature unfriendly to the United States, other than that to Thiel on November 25, 1941, we cannot say that there was here an abuse of the district court's discretion or grounds for mistrial. In any event, the ruling was not so prejudicial as to outweigh all the other circumstances requiring an affirmance.

Affirmed.

963 In the United States Circuit Court of Appeals, Second
Circuit

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

v.

ANTHONY CRAMER, DEFENDANT-APPELLANT

Judgment

Sept. 7, 1943.

Appeal from the District Court of the United States for the Southern District of New York.

This cause came on to be heard on the transcript of record from the District Court of the United States for the Southern District of New York, and was argued by counsel.

On consideration whereof, it is now hereby ordered, adjudged, and decreed that the judgment of said District Court be and it hereby is affirmed.

It is further ordered that a Mandate issue to the said District Court in accordance with this decree.

D. E. ROBERTS,

Clerk.

By A. M. BELL,

Deputy Clerk.

965 [Clerk's certificate to foregoing transcript omitted in
printing.]

966 Supreme Court of the United States

Order allowing certiorari

Filed November 8, 1943

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

967 Supreme Court of the United States

Order granting motion for leave to proceed in forma pauperis

November 8, 1943

On consideration of the motion for leave to proceed herein in
forma pauperis.

It is ordered by this Court that the said motion be, and the same is hereby, granted. The Court directs that the expense of printing the record be paid by the United States pursuant to 28 U. S. C., Sec. 832.

[Endorsement on cover:] In forma pauperis. Enter Harold R. Medina. File No. 47899. U. S. Circuit Court of Appeals, Second Circuit. Term No. 406. Anthony Cramer, Petitioner vs. The United States of America. Petition for a writ of certiorari and exhibit thereto. Filed September 30, 1943. Term No. 406 O. T. 1943.

